SHEALA P. MATRIDO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 179061. July 13, 2009

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-179061/

CARPIO MORALES, J.:

Sheala Matrido (petitioner) assails the May 31, 2007 Decision and August 1, 2007 Resolution of the Court of Appeals,[1] which affirmed the trial court's Decision of December 13, 2004 convicting her of qualified theft.

As a credit and collection assistant of private complainant Empire East Land Holdings, Inc., petitioner was tasked to collect payments from buyers of real estate properties such as Laguna Bel-Air developed by private complainant, issue receipts therefor, and remit the payments to private complainant in Makati City.

On June 10, 1999, petitioner received amortization payment from one Amante dela Torre in the amount of P22,470.66 as evidenced by the owner's copy[2] of Official Receipt No. 36547, but petitioner remitted only P4,470.66 to private complainant as reflected in the treasury department's copy[3] of Official Receipt No. 36547 submitted to private complainant, both copies of which bear the signature of petitioner and reflect a difference of P18,000.

On private complainant's investigation, petitioner was found to have failed to remit payments received from its clients, prompting it to file various complaints, one of which is a Complaint-Affidavit of September 21, 2000[4] for estafa, docketed as I.S. No. 2000-I-32381 in the Makati Prosecutor's Office.

In the meantime or in October 2000, petitioner paid private complainant the total amount of P162,000,[5] drawing private complainant to desist from pursuing some related complaints. A few other cases including I.S. No. 2000-I-32381 pushed through, however, since the amount did not sufficiently cover petitioner's admitted liability of P400,000.[6]

By Resolution of November 15, 2000,[7] the City Prosecution Office of Makati dismissed the Complaint for estafa for insufficiency of evidence but found probable cause to indict petitioner for qualified theft under an Information which reads:

> That on or about the 10th day of June 1999, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then a Credit and Collection Assistant employed by complainant, EMPIRE EAST LAND HOLDINGS, INC., herein represented by Leilani N. Cabuloy, and as such had access to the payments made by complainant's clients, with grave abuse of confidence, intent of gain and without the knowledge and consent of the said complainant company, did then and there willfully, unlawfully and feloniously take, steal and carry away the amount of P18,000.00 received from Amante Dela Torre, a buyer of a house and lot being marketed by complainant company, to the damage and prejudice of the said complainant in the aforementioned amount of P18,000.00.
>
> CONTRARY TO LAW.[8]

On arraignment, petitioner entered a plea of "not guilty."[9] After trial, Branch 56 of the Regional Trial Court (RTC) of Makati, by Decision of December 13, 2004 which was promulgated on April 28, 2005, convicted petitioner of qualified theft, disposing as follows:

> WHEREFORE, accused SHEALA P. MATRIDO is hereby sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day to twelve (12) years[,] five (5) months and ten (10) days.
>
> Accused is further ordered to pay complainant EMPIRE EAST LAND HOLDINGS, INC., the amount of P18,000.00.
>
> SO ORDERED.[10]

By the challenged Decision of May 31, 2007,[11] the Court of Appeals affirmed the trial court's decision, hence, the present petition which raises the sole issue of whether the appellate court "gravely erred in affirming the decision of the trial [court] convicting the petitioner of the crime of qualified theft despite the fact that the prosecution tried to prove during the trial the crime of estafa thus denying the petitioner the right to be informed of the nature and cause of accusation against her"[12]

Petitioner posits that despite her indictment for qualified theft, the prosecution was trying to prove estafa during trial, thus violating her right to be informed of the nature and cause of the accusation against her.

The petition fails.

In Andaya v. People,[13] the Court expounded on the constitutional right to be informed of the nature and cause of the accusation against the accused.

> x x x As early as the 1904 case of U.S. v. Karelsen, the rationale of this fundamental right of the accused was already explained in this wise:
>
> The object of this written accusation was - First. To furnish the accused with such a description of the charge against him as will enable him to make his defense; and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. In order that this requirement may be satisfied, facts must be stated, not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff and defendant), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstances necessary to constitute the crime charged.

It is fundamental that every element constituting the offense must be alleged in the information. The main purpose of requiring the various elements of a crime to be set out in the information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and an accused's right to question his conviction based on facts not alleged in the information cannot be waived. No matter how conclusive and convincing the evidence of guilt may be, an accused cannot be convicted of any offense unless it is charged in the information on which he is tried or is necessarily included therein. To convict him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded. The rule is that a variance between the allegation in the information and proof adduced during trial shall be fatal to the criminal case if it is material and prejudicial to the accused so much so that it affects his substantial rights.[14] (Citations omitted; underscoring supplied)

It is settled that it is the allegations in the Information that determine the nature of the offense, not the technical name given by the public prosecutor in the preamble of the Information. From a legal point of view, and in a very

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth.[15]

Gauging such standard against the wording of the Information in this case, the Court finds no violation of petitioner's rights. The recital of facts and circumstances in the Information sufficiently constitutes the crime of qualified theft.

As alleged in the Information, petitioner took, intending to gain therefrom and without the use of force upon things or violence against or intimidation of persons, a personal property consisting of money in the amount P18,000 belonging to private complainant, without its knowledge and consent, thereby gravely abusing the confidence reposed on her as credit and collection assistant who had access to payments from private complainant's clients, specifically from one Amante Dela Torre.

As defined, 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 the personal property of another without the latter's consent.[16] If committed with grave abuse of confidence, the crime of theft becomes qualified.[17]

In précis, the elements of qualified theft punishable under Article 310 in relation to Articles 308 and 309 of the Revised Penal Code (RPC) are as follows:

- There was a taking of personal property.

- The said property belongs to another.

- The taking was done without the consent of the owner.

- The taking was done with intent to gain.

- The taking was accomplished without violence or intimidation against person, or force upon things.

- The taking was done under any of the circumstances enumerated in Article 310 of the RPC, i.e., with grave abuse of confidence.[18]

In the present case, both the trial court and the appellate court noted petitioner's testimonial admission of unlawfully taking the fund belonging to private complainant and of paying a certain sum to exculpate herself from liability. That the money, taken by petitioner without authority and consent, belongs to private complainant, and that the taking was accomplished without the use of violence or intimidation against persons, nor force upon things, there is no issue.

Intent to gain or animus lucrandi is an internal act that is presumed from the unlawful taking by the offender of the thing subject of asportation. Actual gain is irrelevant as the important consideration is the intent to gain.[19]

The taking was also clearly done with grave abuse of confidence. As a credit and collection assistant of private complainant, petitioner made use of her position to obtain the amount due to private complainant. As gathered from the nature of her functions, her position entailed a high degree of confidence reposed by private complainant as she had been granted access to funds collectible from clients. Such relation of trust and confidence was amply established to have been gravely abused when she failed to remit the entrusted amount of collection to private complainant.

The Court finds no rhyme or reason in petitioner's contention that what the prosecution tried to prove during trial

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

was estafa through misappropriation under Article 315(1)(b) of the RPC.

> x x x The principal distinction between the two crimes is that in theft the thing is taken while in estafa the accused receives the property and converts it to his own use or benefit. However, there may be theft even if the accused has possession of the property. If he was entrusted only with the material or physical (natural) or de facto possession of the thing, his misappropriation of the same constitutes theft, but if he has the juridical possession of the thing, his conversion of the same constitutes embezzlement or estafa.[20] (Underscoring supplied)

The appellate court correctly explained that conversion of personal property in the case of an employee having material possession of the said property constitutes theft, whereas in the case of an agent to whom both material and juridical possession have been transferred, misappropriation of the same property constitutes estafa.[21] Notably, petitioner's belated argument that she was not an employee but an agent of private complainant[22] grants her no respite in view of her stipulation[23] during pre-trial and her admission[24] at the witness stand of the fact of employment. Petitioner's reliance on estafa cases involving factual antecedents of agency transactions is thus misplaced.

That petitioner did not have juridical possession over the amount or, in other words, she did not have a right over the thing which she may set up even against private complainant is clear.[25] In fact, petitioner never asserted any such right, hence, juridical possession was lodged with private complainant and, therefore, estafa was not committed.

Petitioner's view that there could be no element of taking since private complainant had no actual possession of the money fails. The argument proceeds from the flawed premise that there could be no theft if the accused has possession of the property. The taking away of the thing physically from the offended party is not elemental,[26] as qualified theft may be committed when the personal property is in the lawful possession of the accused prior to the commission of the alleged felony.[27]

A sum of money received by an employee in behalf of an employer is considered to be only in the material possession of the employee.[28] The material possession of an employee is adjunct, by reason of his employment, to a recognition of the juridical possession of the employer. So long as the juridical possession of the thing appropriated did not pass to the employee-perpetrator, the offense committed remains to be theft, qualified or otherwise.[29]

> x x x When the money, goods, or any other personal property is received by the offender from the offended party (1) in trust or (2) on commission or (3) for administration, the offender acquires both material or physical possession and juridical possession of the thing received. Juridical possession means a possession which gives the transferee a right over the thing which the transferee may set up even against the owner. In this case, petitioner was a cash custodian who was primarily responsible for the cash-in-vault. Her possession of the cash belonging to the bank is akin to that of a bank teller, both being mere bank employees.[30] (Italics in the original omitted; underscoring and emphasis supplied)

That the transaction occurred outside the company premises of private complainant is of no moment, given that not all business deals are transacted by employees within the confines of an office, and that field operations do not define an agency. What is of consequence is the nature of possession by petitioner over the property subject of the unlawful taking.

On the penalty imposed by the trial court, which was affirmed by the appellate court â”€ indeterminate penalty of 10 years and 1 day to 12 years, 5 months and 10 days:

The penalty for qualified theft is two degrees higher than the applicable penalty for simple theft. The amount

stolen in this case was P18,000.00. In cases of theft, if the value of the personal property stolen is more than P12,000.00 but does not exceed P22,000.00, the penalty shall be prision mayor in its minimum and medium periods. Two degrees higher than this penalty is reclusion temporal in its medium and maximum periods or 14 years, 8 months and 1 day to 20 years.

Applying the Indeterminate Sentence Law, the minimum shall be prision mayor in its maximum period to reclusion temporal in its minimum period or within the range of 10 years and 1 day to 14 years and 8 months.[31] The mitigating circumstance of voluntary surrender being present, the maximum penalty shall be the minimum period of reclusion temporal in its medium and maximum periods or within the range of 14 years, 8 months and 1 day to 16 years, 5 months and 20 days.

The Court thus affirms the minimum penalty, but modifies the maximum penalty imposed.

WHEREFORE, the Decision of May 31, 2007 and Resolution of August 1, 2007 of the Court of Appeals in CA-G.R. CR No. 29593 is AFFIRMED with MODIFICATION as to the imposed penalty, such that petitioner, Sheala P. Matrido, is sentenced to suffer the indeterminate penalty of 10 years and 1 day of prision mayor, as minimum, to 14 years, 8 months and 1 day of reclusion temporal, as maximum.

SO ORDERED.

Quisumbing, (Chairperson), Chico-Nazario,[*] Leonardo-De Castro,[**] and Brion, JJ., concur.

---

[*] Additional member per Special Order No. 658.

[**] Additional member per Special Order No. 635.

[1] The assailed issuances were penned by Justice Andres B. Reyes, Jr. with the concurrence of Justices Jose C. Mendoza and Ramon M. Bato, Jr.; rollo, pp. 53-64, 73.

[2] Records, p. 107.

[3] Id. at 108.

[4] Id. at 6-8. Signed by its authorized representative, Junior Treasury Manager Leilani Cabuloy.

[5] Id. at 116-117.

[6] TSN, January 15, 2004, p. 16.

[7] Records, p. 2.

[8] Id. at 1.

[9] Id. at 62.

[10] Id. at 141.

[11] Penned by Presiding Judge Nemesio S. Felix.

[12] Rollo, p. 14.

[13] G.R. No. 168486, June 27, 2006, 493 SCRA 539.

[14] Id. at 557-558.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[15] Id. at 552-553 citing U.S. v. Lim San, 17 Phil. 273, 278-279 (1910).

[16] REVISED Penal Code, Art. 308, par. 1.

[17] Id. at Art. 310.

[18] Vide People v. Bago, 386 Phil. 310, 334-335 (2000).

[19] Vide People v. Bustinera, G.R. No. 148233, June 8, 2004, 431 SCRA 284, 296.

[20] Santos v. People, G.R. No. 77429, January 29, 1990, 181 SCRA 487, 492.

[21] Rollo, p. 60.

[22] Id. at 17.

[23] Records, p. 65.

[24] TSN, January 15, 2004, pp. 3, 5.

[25] Rollo, p. 61.

[26] Luis B. Reyes, The Revised Penal Code (1998), pp. 687, 691.

[27] Roque v. People, 486 Phil. 288, 304 et seq. (2004)

[28] Id. at 310.

[29] Vide id. at 307.

[30] Chua-Burce v. Court of Appeals, 387 Phil. 15, 26 (2000).

[31] Cruz v. People, G.R. No. 176504, September 3, 2008.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.