



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 9, 2020 which reads as follows:

“G.R. No. 250563 — CRISANTA C. DY, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

The Petition has no merit. The Court of Appeals (CA) did not err in finding petitioner Crisanta C. Dy (petitioner Dy) guilty of the crime of Qualified Theft. The Court quotes with approval the following disquisition of the CA:

The elements of qualified theft punishable under Article 310, in relation to Article 308 of the Revised Penal Code are:

- (1) there was a taking of personal property;
- (2) the said property belongs to another;
- (3) the taking was done without the consent of the owner;
- (4) the taking was done with intent to gain;
- (5) the taking was accomplished without violence or intimidation against person, or force upon things; and,
- (6) the taking was done under any of the circumstances enumerated in Article 310 of the RPC, i.e., with grave abuse of confidence.

All the elements of qualified theft are present in this case.

The prosecution evidence positively established that [petitioner Dy], while employed as a liaison officer of private complainant [Alma C. Mariano (private complainant)]’s Almaken Business Consultancy & Services, took the money entrusted to her for payment of assessment fees, fines and other expenses of the company. The taking was without private complainant’s consent and was accomplished without the use of violence or intimidation against persons, or force upon things.

- over – six (6) pages ...

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[Petitioner Dy]'s position as Liaison Officer necessarily entailed trust and confidence, considering that matters essentially pertaining to the conduct of business of the company were entrusted to [petitioner Dy], including the safekeeping of important documents and the handling of money needed for the payment of processing of papers of private complainant's clients.

To prove that [petitioner Dy] received various amounts of money which were given to her by private complainant for payment of assessment fees, fines and other expenses of the company, the prosecution presented [petitioner Dy]'s co-employees, Adrian Anson Calinao and Veronica Dante, who both testified that [petitioner Dy] signed the corresponding petty cash vouchers and received the company funds in their presence.

The unliquidated amounts are as follows:

Exhibit	Date	Particulars	Amount
"H"	November 23, 2010	LTFRB fees and penalties for Countryside Freight Movers	62,000.00
"W"	January 11, 2011	Counsel fee	19,000.00
"Y"	July 29, 2011	Counsel fee and publication	54,000.00
"G"	August 8, 2011	Publication expense for Pioquinto Law Office	11,600.00
"E"	August 17, 2011	LTFRB assessment fees for extension of validity – Silvestre F. Avila	5,100.00
"F"	August 17, 2011	LTFRB assessment fees for extension of validity – Gold Movers Transport and Rebecca Dante Mendoza	35,000.00
"F"	August 17, 2011	Franchise processing	295,000.00
		TOTAL	Php481,700.00

During his direct examination, witness Adrian Anson Calinao testified that he was an employee of Almaken Business Consultancy & Services, whose duty, among others, was to prepare petty cash vouchers. On several occasions, he saw [petitioner Dy] sign the petty cash vouchers and receive the money requested from private complainant.

Q Now in these petty cash vouchers which you have identified, do you remember if Crisanta Dy received the money which was reflected in these petty cash vouchers which you have identified?

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- A Yes, sir.
- Q Why do you say that Crisanta Dy received the money as reflected in these petty cash vouchers marked as Exhibits "W", "X", "Y", "G", "K", "E" and "F"?
- A Because I saw it, I was there when she received the money.
- Q You said that you drafted the petty cash vouchers, can you tell us what is the procedure if a certain employee wants to get money from Alma Mirano in payment of what they have requested?
- A The first step is that they will ask me to prepare a petty cash voucher so that they could request money from Ma'am Alma. I will prepare the petty cash voucher and they will give it to Ma'am Alma.
- Q And then after an employee would request petty cash voucher from you, what other procedures do you require?
- A After the preparation of the petty cash voucher, we will give it to Ma'am Alma for her approval and for the release of the money.
- Q You mean to say that the one who requested for the issuance or the drafting of the petty cash voucher, is the one who will give the petty cash voucher to Ms. Alma Mirano?
- A Yes, sir.
- Q And would you know if the money which the person requesting would pay the obligation which she requested in the petty cash voucher?
- A The one who requested for the petty cash voucher will affix [his/her] signature in the petty cash voucher.
- Q For example, in these petty cash vouchers addressed to Crisanta Dy, in Exhibit "X", "W", "Y", "H" and so on, when the person affixing (*sic*) his signature what does it mean? In that received payment what does it

mean? For example, Crisanta Dy, when that person Crisanta Dy affixed her signature in the received payment, what does it mean?

- A It means that she already received the money that she requested, sir

Moreover, prosecution witness Rea M. Carpio, another liaison officer of Almaken Business Consultancy & Services, testified that she was ordered by private complainant to pay the unpaid amounts left by [petitioner Dy], as the clients were already demanding for the receipts therefor. This corroborated the testimony of private complainant that [petitioner Dy] unlawfully took the company funds for her personal gain. x x x

x x x x

That [petitioner Dy] failed to remit the company funds entrusted to her for payment of company expenses, necessarily evinced intent to gain on her part. For 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.

What is more, it was established by witness Analyn Estalane, Account Clerk of Pioquinto Law Office, that [petitioner Dy] padded her expenses and submitted fake receipts of her supposed payment for the publication and attorney's fees pertaining to Pioquinto Law Office. While it appears from [petitioner Dy]'s files that three (3) receipts were issued by Pioquinto Law Office in favor of Almaken Business Consultancy & Services for payment of publication and counsel fees, witness Analyn Estalane attested that said receipts were not issued by their office. Clearly, [petitioner Dy] presented said fake receipts to conceal her taking or misappropriation of the company funds intended for the supposed payment to Pioquinto Law Office. [Petitioner Dy]'s failure to account for said fees constitutes appropriation with intent to gain.

The Court thus finds that the prosecution evidence was able to prove beyond reasonable doubt that [petitioner Dy] took the company funds intended for payment of assessment fees, fines and other company expenses, which was (*sic*) entrusted to her by private complainant, without the latter's authority and consent. Aside from her bare denial that she signed the petty cash vouchers, [petitioner Dy] failed to present any proof to show that the same were forged.

x x x x

Verily, [petitioner Dy]'s defense of mere denial cannot prevail over the positive evidence of the prosecution. Well-

entrenched is the doctrine that the defense of denial, especially if it is not substantiated by any clear and convincing evidence, is viewed with disfavor. It is an inherently weak defense as it is a self-serving negative evidence that cannot be given more evidentiary weight than the affirmative declarations of credible witnesses.

Moreover, it is an established rule in appellate review that the trial court's factual findings — including its assessment of the credibility of the witnesses, the probative weight of their testimonies, and the conclusions drawn from the factual findings — are accorded great respect and even conclusive effect.¹

The Court finds that although the prosecution was able to prove during trial that petitioner Dy failed to liquidate vouchers in the amount of ₱481,700.00, petitioner Dy's sentence should be computed based on ₱409,994.96 as this is the amount stated in the Information and no amendment of the Information was sought by the prosecution at any point during trial. Petitioner Dy's civil indemnity, however, should be ₱481,700.00 — the actual amount that the prosecution proved petitioner Dy failed to liquidate.

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. The Decision dated September 13, 2019 of the Court of Appeals in CA-G.R. CR No. 42172 is hereby **AFFIRMED**. Petitioner Crisanta C. Dy is sentenced to suffer the indeterminate penalty of imprisonment of SIX (6) YEARS and ONE (1) DAY to EIGHT (8) YEARS of *prision mayor* in its minimum term to EIGHT (8) YEARS and ONE (1) DAY to TEN (10) YEARS in its medium term in accordance with Republic Act No. 10951. Petitioner Dy is likewise ordered to indemnify the private complainant the amount of FOUR HUNDRED EIGHTY ONE THOUSAND SEVEN HUNDRED PESOS (₱481,700.00), which shall earn legal interest at the rate of six per cent (6%) per annum from date of finality of this Resolution until fully paid.

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¹ *Rollo*, pp. 40-50, CA Decision dated September 13, 2019 in CA-G.R. CR No. 42172, penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Danton Q. Bueser and Ronaldo Roberto B. Martin concurring.

SO ORDERED.” *Peralta, C.J., no part; Gesmundo, J.,
Additional Member per Raffle dated June 1, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
MSB

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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