



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

MARIA PAZ FRONTRERAS y  
 ILAGAN,

Petitioner,

G.R. No. 190583

Present:

VELASCO, JR., J.,  
*Chairperson,*  
 PERALTA,  
 DEL CASTILLO,\*  
 REYES, and  
 JARDELEZA, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,  
 Respondent.

Promulgated:

December 7, 2015

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DECISION

REYES, J.:

Before the Court is a Petition for Review<sup>1</sup> under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>2</sup> dated July 29, 2009 of the Court of Appeals (CA) in CA-G.R. CR No. 30909, which affirmed with modification the Decision<sup>3</sup> dated May 8, 2006 of the Regional Trial Court (RTC) of Quezon City, Branch 104, in Criminal Case No. Q-99-84626, convicting Maria Paz Fronteras<sup>4</sup> y Ilagan (petitioner) of the crime of Qualified Theft and sentencing her to suffer the penalty of *reclusion perpetua*.

\* Additional member per Raffle dated January 5, 2015 *vice* Associate Justice Martin S. Villarama, Jr.

<sup>1</sup> *Rollo*, pp. 9-31.

<sup>2</sup> Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Jose C. Reyes, Jr. concurring; *CA rollo*, pp. 136-155.

<sup>3</sup> Issued by Judge Thelma A. Ponferrada; records (Vol. II), pp. 492-511.

<sup>4</sup> Fronteras in other documents of the case.

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### The Facts

The petitioner was the Vault Custodian of the 685 Old Balara, Tandang Sora, Quezon City branch (Old Balara branch) of Cebuana Lhuillier Pawnshop (Cebuana). She was tasked to safe keep all the pawned items and jewelry inside the branch vault. Likewise employed in the same branch were Teresita Salazar (Salazar) and Jeannelyn Carpon (Carpon) who served as Branch Manager and District Manager, respectively. Salazar was responsible for the overall operation of the Old Balara branch and was also tasked to handle the appraisal of pawned items and the recording of such transactions. Carpon, on the other hand, supervised the overall operations of the branches within her district ensuring that they are operating within the objectives, procedures, and policies of Cebuana; she also monitored the district bank account and handled the appraisal of pawned items and the recording of cash.<sup>5</sup>

On October 27, 1998, a surprise audit was conducted at the Old Balara branch by Cebuana's internal auditors, Mila Escartin (Escartin) and Cynthia Talampas (Talampas). The audit revealed that 156 pieces of jewelry, with an aggregate value of ₱1,250,800.00 were missing. A cash shortage of ₱848.60 was likewise discovered. When the petitioner was asked to explain the discrepancy, she told Escartin that she would reduce her explanation into writing. The next day, an audit report was sent to Marcelino Finolan (Finolan), Area Manager of Cebuana.<sup>6</sup>

Upon receipt of the audit report on October 28, 1998, Finolan immediately proceeded to the Old Balara branch to conduct an investigation. He called Escartin and the petitioner for a meeting during which the petitioner handed over several pawn tickets<sup>7</sup> while Escartin gave him a handwritten letter made by the petitioner,<sup>8</sup> which reads:

Oct. 28, 1998

*Sa Kinauukulan:*

*Sir, nagconduct po ng audit kahapon Oct. 27, 1998 dito sa Old Balara I at nadiskubre po na maraming nawawalang item. Sir ang lahat pong ito ay mga sanla namin. Ang involve po dito ay ang appraiser – Tess Salazar, Dist. Manager – Jeannelyn Uy Carpon, at ako po Vault Custodian – Ma. Paz Fronteras. Yong iba pong item ay mga tubos na at nakatago lang po ang papel. Nagsimula po ito noong buwan ng Hulyo. Dala na rin pong matinding pangangailangan sa pera. Ito lamang po ang tangi kong mailalahad at iyan din po ang katotohanan.*

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<sup>5</sup> CA rollo, pp. 137-138.

<sup>6</sup> Id. at 138.

<sup>7</sup> TSN, December 13, 1999, pp. 10-13.

<sup>8</sup> Folder of Exhibits, Exhibit "B".

*Sumasainyo,*  
*[signed]*  
*Ma. Paz Fronteras<sup>9</sup>*

On May 10, 1999, an Information<sup>10</sup> for Qualified Theft was filed before the RTC against the petitioner, Salazar, and Carpon. The accusatory portion of the Information reads:

That on or about the period comprised from June 6, 1998 up to October 17, 1998, in Quezon City, Philippines, the above-named accused, conspiring, confederating and mutually helping one another, being then employed as the Branch Manager, District Manager and Vault Custodian, respectively of [CEBUANA] represented by [FINOLAN] located at Unit 1119 B & C 685 Tandang Sora, Old Balara, Quezon City and such have free access to the jewelries pawned to [CEBUANA], with grave abuse of confidence reposed on them by their employer, with intent to gain and without the knowledge and consent of the owner thereof, did then and there wilfully, unlawfully and feloniously take, steal and carry away the amount of ₱1,263,737.60, Philippine Currency, representing the value of the jewelries and redemption payments, belonging to said [CEBUANA], to the damage and prejudice of the said offended party in the amount aforementioned.

CONTRARY TO LAW.<sup>11</sup>

Salazar and Carpon entered a “Not Guilty” plea upon arraignment on July 13, 1999.<sup>12</sup> The petitioner likewise pleaded “Not Guilty” during her arraignment on August 9, 1999.<sup>13</sup>

Trial thereafter ensued. According to prosecution witness Finolan, aside from receiving the petitioner’s handwritten letter on October 28, 1998, the petitioner also gave him original pawn tickets, the back portion of which showed the signatures of their respective pledgors. These signatures mean that the pledgors have already redeemed the jewelry covered by each ticket by paying the amount for which they stand as a security. No payments were, however, recorded nor turned over to the pawnshop. The petitioner also intimated to him that Carpon took some of such cash payments but failed to return the same.<sup>14</sup> These declarations were corroborated by the testimonies of the other prosecution witnesses, Escartin<sup>15</sup> and Talampas.<sup>16</sup>

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<sup>9</sup> Id.

<sup>10</sup> Records (Vol. I), pp. 1-2.

<sup>11</sup> Id.

<sup>12</sup> Id. at 172.

<sup>13</sup> Id. at 178.

<sup>14</sup> TSN, October 5, 1999, pp. 6-14, 16-17, TSN, December 13, 1999, pp. 4-6, 12-13, 16-17.

<sup>15</sup> TSN, June 19, 2000, pp. 4-5, 13-14.

<sup>16</sup> TSN, November 7, 2001, pp. 6-9, 12-13, 15-19, 23-24.

All of the accused took the witness stand and proffered in defense that the internal audit for June, July, August and September of 1998 showed no report of anomaly or shortage; that had there been any anomaly or shortage, it could have been discovered thru the periodic audit being conducted by Cebuana; they were not holding cash and there was no complaint from clients regarding missing pawned items.<sup>17</sup>

Carpon denied liability for the missing jewelry and redemption payments and averred that she had no official capacity to hold cash for Cebuana and that the pawned items were handled by the vault custodian. When Finolan asked her about the missing items, she told him there was none. She was brought to the police station and then submitted for inquest but was thereafter released based on insufficiency of evidence.<sup>18</sup>

Salazar was absent on October 27 and 28, 1998 because she was sick. She was surprised when she was informed that there are missing pawned items at the Old Balara branch because Finolan conducts an audit twice a month.<sup>19</sup>

The petitioner claimed that Finolan and the auditor prodded her to admit liability for the missing pawned items otherwise an administrative case will be filed against her. The prospect of losing her job frightened her. The police car outside the Old Balara branch also intimidated her. She was brought to the police station and was eventually subjected to inquest proceedings but was released for lack of evidence. She denied that there were missing jewelries from the Old Balara branch. She stressed that what was actually missing was cash, over which she had no custodial duty.<sup>20</sup>

On rebuttal, Finolan clarified that the purpose of the spot/surprise audit was to check for fake or over-appraised pawned items and not to check for inventory anomalies.<sup>21</sup>

### **The Ruling of the RTC**

In a Decision<sup>22</sup> dated May 8, 2006, the RTC found sufficient circumstantial evidence establishing that the petitioner perpetrated the offense. The petitioner was entrusted with the position of vault custodian tasked with the responsibility for all pawned wares and to make sure that

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<sup>17</sup> Records (Vol. II), p. 502.

<sup>18</sup> Id. at 502-505.

<sup>19</sup> Id. at 505-506.

<sup>20</sup> Id. at 507-508.

<sup>21</sup> Id. at 508.

<sup>22</sup> Id. at 492-511.

they were all intact and safely kept in the vault. During the audit, there were open items (unredeemed pawned items) which she could not locate.

She had in her possession pawn tickets pertaining to items which were already redeemed. She surrendered the pawn tickets to Finolan, but without the corresponding redemption payment. Her position of vault custodian created a high degree of confidence between her and the pawnshop which she gravely abused.<sup>23</sup> Based on the appraisal value of the pieces of jewelry covered by the pawn tickets surrendered by the petitioner during audit but without the corresponding redemption payment, Cebuana suffered injury in the aggregate sum of ₱414,050.00.<sup>24</sup>

The petitioner's co-accused Salazar and Carpon were acquitted on the ground of reasonable doubt.<sup>25</sup> Accordingly, the dispositive portion of the RTC decision reads as follows:

WHEREFORE, the Court finds [the petitioner] guilty beyond reasonable doubt as principal of the crime of QUALIFIED THEFT defined and penalized in Article 310 of the Revised Penal Code, sentencing her therefor to an indeterminate penalty of fourteen (14) years and eight (8) months of reclusion temporal as minimum to twenty (20) years of reclusion temporal as maximum, and ordering her to pay to [Cebuana] the amount of P414,050.00.

On ground of reasonable doubt, judgment is hereby rendered acquitting accused [Salazar] and [Carpon] of the offense charged against them.

SO ORDERED.<sup>26</sup>

The petitioner moved for reconsideration arguing for her acquittal for failure of the prosecution to establish her guilt beyond reasonable doubt. She also questioned the correctness of the penalty imposed by the RTC.<sup>27</sup>

In an Order<sup>28</sup> dated November 6, 2006, the RTC denied reconsideration on its finding of guilt but it reduced the penalty it had earlier imposed to four (4) years, two (2) months and one (1) day of *prision correccional* as minimum to ten (10) years and one (1) day of *prision mayor* as maximum, explaining thus:

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<sup>23</sup> Id. at 509.

<sup>24</sup> Id. at 509-511.

<sup>25</sup> Id. at 511.

<sup>26</sup> Id.

<sup>27</sup> Id. at 512-515.

<sup>28</sup> Id. at 525-540.

The Court is however inclined to reduce the penalty by considering the surrender of the pawn tickets as a mitigating circumstance analogous to voluntary surrender under Article 13, paragraph 7, and the necessity mentioned in the handwritten explanation as analogous to incomplete justification under Article 11, paragraph 4, x x x in relation to Article 13, paragraph 1, of the Revised Penal Code.<sup>29</sup>

Consequently, the previous RTC ruling was modified as follows:

WHEREFORE, the Court maintains the Decision dated May 8, 2006 finding [the petitioner] guilty beyond reasonable doubt as principal of the crime of QUALIFIED THEFT defined and penalized in Article 310 of the Revised Penal Code, and, considering the two analogous mitigating circumstances, modifies the penalty by sentencing her therefor to an indeterminate penalty of four (4) years, two (2) months and one (1) day of prision correccional as minimum to ten (10) years and one (1) day of prision mayor as maximum, and ordering her to pay to [CEBUANA] the amount of P414,050.00

SO ORDERED.<sup>30</sup>

Undeterred, the petitioner filed a Motion for Amendment of Modified Penalty<sup>31</sup> arguing that the RTC erred in the application of the Indeterminate Sentence Law. The RTC denied the motion in an Order<sup>32</sup> dated March 8, 2007.

### **The Ruling of the CA**

The petitioner appealed to the CA contending that the inferences made by the RTC were based on unfounded facts, since: (a) based on the audit reports for June, July, August and September of 1998, there were no anomalies occurring in Cebuana; (b) no evidence was presented tending to prove that the petitioner had the exclusive right to enter the pawnshop's vault; (c) no complaint from clients regarding the missing pawned items was ever filed.<sup>33</sup>

The CA rejected the petitioner's arguments and upheld the RTC's findings and conclusions. The CA observed that the audits were actually not audit reports *per se* but rather reports made in order to determine the profitability of the pawnshop. Even if they are considered as regular audits, their nature will not preclude the existence of fraud because they were

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<sup>29</sup> Id. at 539.

<sup>30</sup> Id. at 540.

<sup>31</sup> Id. at 541-543.

<sup>32</sup> Id. at 547-549.

<sup>33</sup> CA *rollo*, pp. 76-77.

conducted only for the purpose of ascertaining fake items or if there was over-appraisal.<sup>34</sup>

Anent the petitioner's insinuation that another person could have accessed the vault, the CA held:

[O]nly the Vault Custodian and the Area Manager, Finolan in this case, knows the combination of the vault. Finolan, however, has no keys to the main door of the branch and likewise has no keys to the inner door/gate of the branch. Furthermore, nobody is allowed to enter the vault without the presence of the Vault Custodian. Thus, there is simply no way for Finolan or any other person for that matter, to have been able to remove items from the vault. Considering the circumstances and the safe-guards employed, it is absurd to impute the crime to any person other than [the petitioner].

[The petitioner], on the other hand, as Vault Custodian, has daily and unsupervised access to the vault. Again, she has the duty to ensure the safe-keeping of all the pawned items and jewelry inside the branch vault. If there was any loss, she should have immediately reported it to her superiors. The fact that she failed to do so leads to a reasonable inference that she is the author of the loss.<sup>35</sup> (Citations omitted and underscoring in the original)

The CA further held that the absence of any complaint from Cebuana's clients does not necessarily mean that there was no loss. In the pawnshop business, it is not uncommon for people to fail to redeem the valuables they pawned. The CA, thus, concluded that the prosecution was able to establish: (1) the fact of loss; (2) that the loss was due to an unlawful taking; and (3) that the unlawful taking was committed with grave abuse of confidence.<sup>36</sup>

The CA, however, disagreed with the RTC that the return by the petitioner of the pawn tickets can be deemed as the mitigating circumstance of voluntary surrender. The CA explained that the petitioner did not surrender herself to a person in authority and thus modified the penalty imposed on her to *reclusion perpetua*.<sup>37</sup>

Accordingly, the CA Decision<sup>38</sup> dated July 29, 2009 was disposed in this manner:

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<sup>34</sup> Id. at 145-146.

<sup>35</sup> Id. at 146-147.

<sup>36</sup> Id. at 147-148.

<sup>37</sup> Id. at 152-154.

<sup>38</sup> Id. at 136-155.

**WHEREFORE**, the instant appeal is **DISMISSED** for lack of merit and the assailed decision is **AFFIRMED with MODIFICATION** in that the [petitioner] is sentenced to suffer the penalty of *reclusion perpetua*.

**SO ORDERED.**<sup>39</sup> (Emphasis in the original)

The petitioner moved for reconsideration<sup>40</sup> but her motion was denied in the CA Resolution<sup>41</sup> dated December 18, 2009. Hence, the present petition<sup>42</sup> arguing that the CA:

I.

COMMITTED SERIOUS ERROR IN NOT FINDING THAT THE TRIAL COURT GRAVELY ERRED IN RENDERING JUDGMENT UPON CONJECTURES AND SURMISES *VIS-À-VIS* THE ABSENCE OF CIRCUMSTANTIAL EVIDENCE.

II.

COMMITTED AN ERROR OF LAW BY CONCLUDING THAT THE PETITIONER HAS TO SUFFER THE PENALTY OF RECLUSION PERPETUA.<sup>43</sup>

### The Ruling of the Court

The Court denies the petition.

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.<sup>44</sup> 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.<sup>45</sup> Theft becomes qualified if it is among others, committed with grave abuse of confidence.<sup>46</sup>

Conviction for qualified theft committed with grave abuse of confidence entails the presence of all the following elements:

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<sup>39</sup> Id. at 154-155.

<sup>40</sup> Id. at 156-169.

<sup>41</sup> Id. at 223-227.

<sup>42</sup> *Rollo*, pp. 9-31.

<sup>43</sup> Id. at 14.

<sup>44</sup> REVISED PENAL CODE, Article 308, paragraph 1.

<sup>45</sup> *People v. Anabe*, 644 Phil. 261, 282 (2010).

<sup>46</sup> Id.; REVISED PENAL CODE, Article 310.



1. Taking of personal property;
2. That the said property belongs to another;
3. That the said taking be done with intent to gain;
4. That it be done without the owner's consent;
5. That it be accomplished without the use of violence or intimidation against persons, nor of force upon things;
6. That it be done with grave abuse of confidence.<sup>47</sup>

On the other hand, the elements of *corpus delicti* in theft are: (1) that the property was lost by the owner; and (2) that it was lost by felonious taking.<sup>48</sup>

The evidence on record shows that the foregoing elements are present in this case. The prosecution has established beyond reasonable doubt that the petitioner unlawfully deprived Cebuana of cash/money when she took out pawned items and released them to redeeming pledgors in exchange for redemption payments which she, however, did not turnover to the pawnshop, and instead pocketed them for her own gain. She gravely abused the confidence concurrent with her sensitive position as a vault custodian when she exploited her exclusive and unlimited access to the vault to facilitate the unlawful taking. Her position entailed a high degree of confidence reposed by Cebuana as she had been granted daily unsupervised access to the vault.<sup>49</sup> Also, the petitioner knew the combinations of the branch's vault<sup>50</sup> and nobody was allowed to enter the vault without her presence.<sup>51</sup>

The petitioner gravely abused such relation of trust and confidence when she accessed and released the pawned items under her custody, received the payments for their redemption but failed to record such redemption and remit the payments to the cash collections of Cebuana. Without the authority and consent of her employer, she repeatedly took and appropriated for herself the redemption payments paid for the pawned items with the aggregate appraised value of ₱414,050.00,<sup>52</sup> viz:

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<sup>47</sup> *People v. Mirto*, 675 Phil. 895, 906 (2011).

<sup>48</sup> *Gan v. People*, 550 Phil. 133, 161-162 (2007).

<sup>49</sup> *CA rollo*, p. 147.

<sup>50</sup> TSN, February 7, 2000, pp. 3-4.

<sup>51</sup> *Id.* at 10.

<sup>52</sup> Folder of Exhibits, Exhibits "D"- "D-61".

<u>Pawn Ticket No.</u>	<u>Appraisal Value</u>	<u>Pawn Ticket No.</u>	<u>Appraisal Value</u>
041487	P 13,000.00	043930	5,600.00
041818	2,000.00	043716	2,000.00
045453	1,500.00	044477	2,100.00
043874	2,400.00	044980	3,700.00
043875	700.00	044852	1,700.00
043876	500.00	043029	13,500.00
046047	600.00	043028	20,000.00
046019	500.00	043026	8,000.00
045960	2,700.00	045008	2,300.00
044271	5,200.00	044561	2,400.00
043002	18,000.00	046159	2,300.00
045777	6,500.00	045722	1,500.00
042934	17,700.00	042160	14,000.00
044586	8,200.00	041983	20,000.00
043970	5,000.00	042137	19,500.00
043796	3,800.00	042144	6,000.00
043647	6,500.00	042138	15,500.00
044061	6,500.00	045957	1,300.00
044235	5,000.00	046030	3,000.00
044130	1,100.00	041568	13,700.00
043844	1,200.00	043281	7,800.00
044867	4,000.00	042712	22,000.00
044903	3,000.00	042576	13,000.00
044714	2,500.00	043394	10,000.00
044938	2,300.00	043395	16,000.00
042988	2,500.00	042147	7,500.00
045029	2,300.00	041972	15,000.00
043858	5,500.00	044060	12,000.00
043766	3,500.00	043027	7,000.00
043641	1,750.00	042987	2,500.00
045068	2,000.00	043035	5,200.00

Intent to gain can be deduced from the petitioner's possession of the foregoing pawn tickets which were surrendered, together with the redemption payment by their respective pledgors. She submitted them during the spot audit along with a confession letter stating that portions of the ₱1,250,800.00 missing value of jewelry were actually already redeemed, thus:

*Yung iba pong item ay mga tubos na at nakatago lang po ang papel. Nagsimula po ito noong buwan ng Hulyo. Dala na rin po ng matinding pangangailangan sa pera. Ito lamang po ang tangi kong mailalahad at iyan din po ang katotohanan.*<sup>53</sup>

The tenor of the foregoing declaration and the circumstances of the petitioner at the time she wrote and signed it, all militate against her bare allegation that she was threatened with an administrative case unless she admits her transgression.

<sup>53</sup> Id. at Exhibit "B".

The petitioner wrote and signed the confession letter spontaneously. When Escartin asked her if there are any problems in the Old Balara branch, the petitioner answered that she will write down her explanation and will submit it to Escartin.<sup>54</sup> The petitioner also told Talampas that if she will escape, she will just be afraid that someone will go after her and that she will just face the consequences.<sup>55</sup> Talampas then saw the petitioner make and sign the confession letter.<sup>56</sup> When Finolan went to the Old Balara branch for further investigation, Escartin handed her the confession letter from the petitioner.<sup>57</sup>

The language of the confession letter was straightforward, coherent and clear. It bore no suspicious circumstances tending to cast doubt upon its integrity and it was replete with details which could only be known to the petitioner. Moreover, it is obvious that losing one's job in an administrative case is less cumbersome than risking one's liberty by confessing to a crime one did not really commit. It is thus implausible for one to be cajoled into confessing to a wrongdoing at the mere prospect of losing his/her job. The petitioner's declarations to Talampas show that she fully understood the consequences of her confession. She also executed the letter even before Finolan came to the Old Balara branch, thus, negating her claim that the latter threatened her with an administrative sanction.

A confession, whether judicial or extrajudicial, if voluntarily and freely made, constitutes evidence of a high order since it is supported by the strong presumption that no sane person or one of normal mind will deliberately and knowingly confess himself to be the perpetrator of a crime, unless prompted by truth and conscience. The admissibility and validity of a confession, thus hinges on its voluntariness,<sup>58</sup> a condition vividly present in this case.

The petitioner's extrajudicial written confession coupled with the following circumstantial evidence all point to her as the perpetrator of the unlawful taking:

1. On October 27, 1998, Escartin and Talampas conducted a spot audit at the Old Balara branch of Cebuana.<sup>59</sup>
2. Escartin counter-checked the computer list of all pawned items not yet redeemed *vis-à-vis* the actual stocks in the vault and discovered that there were missing items.<sup>60</sup>

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<sup>54</sup> TSN, June 19, 2000, pp. 13-14.

<sup>55</sup> TSN, November 7, 2001, p. 17.

<sup>56</sup> Id. at 18-19.

<sup>57</sup> TSN, October 5, 1999, pp. 9-10.

<sup>58</sup> *People v. Satorre*, 456 Phil. 98, 107 (2003).

<sup>59</sup> TSN, June 19, 2000, pp. 5-6.

3. Escartin asked the petitioner if there are any problems in the branch. The latter answered that she will just write down everything that happened and hand over her explanation to Escartin.<sup>61</sup>
4. After receiving the audit report on October 28, 1998, Finolan proceeded to the Old Balara branch and conducted an investigation.<sup>62</sup>
5. When Talampas reported for work on October 28, 1998, the petitioner told her that she thought about what happened and that she is afraid that someone will be going after her if she will run away and so she has to face the consequences.<sup>63</sup>
6. Talampas thereafter saw the petitioner write and sign a confession letter.<sup>64</sup>
7. The letter was given to Finolan when he went to the Old Balara branch to investigate.<sup>65</sup>
8. In the letter, the petitioner admitted that some of the missing pawned items were already redeemed. She also stated that she had “extreme need for money.”<sup>66</sup>
9. The petitioner then handed over to Finolan original pawn tickets.<sup>67</sup>
10. Finolan observed that the pawn tickets were already redeemed or paid by their respective pledgors as evidenced by their signatures of validation.<sup>68</sup>
11. There are no records of redemption transactions under the said pawn tickets.<sup>69</sup>
12. The petitioner did not convey any redemption payment to Finolan or to the pawnshop.<sup>70</sup>

## Penalty

Under Article 310<sup>71</sup> of the Revised Penal Code (RPC), the penalty for qualified theft is two degrees higher than that specified in Article 309 which states:

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<sup>60</sup> Id. at 11.

<sup>61</sup> Id. at 13-14.

<sup>62</sup> TSN, October 5, 1999, pp. 8-9.

<sup>63</sup> TSN, November 7, 2001, p. 17.

<sup>64</sup> Id. at 18-19.

<sup>65</sup> TSN, October 5, 1999, p. 10.

<sup>66</sup> CA *rollo*, p. 224.

<sup>67</sup> TSN, October 5, 1999, p. 17; TSN, November 7, 2001, p. 24.

<sup>68</sup> TSN, December 13, 1999, pp. 12-13.

<sup>69</sup> Id. at 14.

<sup>70</sup> Id. at 15.

<sup>71</sup> Art. 310. 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 the plantation or 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.

Art. 309. *Penalties*.—Any person guilty of theft shall be punished by:

1. **The penalty of *prision mayor* in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos, but if the value of the thing stolen exceeds the latter amount the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years.** In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

x x x x (Emphasis ours and italics in the original)

Considering that the value involved in the present case exceeds ₱22,000.00, the basic penalty is *prision mayor* in its minimum and medium periods.

Anent the graduation of penalty for qualified theft and the imposition of incremental penalty for the amount in excess of ₱22,000.00, the ruling espoused in *Ringor v. People*<sup>72</sup> is hereby adopted.

Since the petitioner committed qualified theft, the penalty shall be two degrees higher or *reclusion temporal in its medium and maximum periods*,<sup>73</sup> which shall be imposed in its maximum period which has a range of seventeen (17) years, four (4) months and one (1) day to twenty (20) years.<sup>74</sup>

The incremental penalty shall then be determined by deducting ₱22,000.00 from the amount involved or ₱414,050.00. This will yield the amount of ₱392,050.00 which would then be divided by ₱10,000.00, disregarding any amount less than ₱10,000.00.<sup>75</sup> The end result is that 39 years should be added to the principal penalty. The total imposable penalty, however, should not exceed 20 years and as such, the maximum imposable penalty in this case is 20 years of *reclusion temporal*.<sup>76</sup>

Anent the appreciation of mitigating circumstances, the Court agrees with the RTC that the petitioner's extrajudicial confession through the handwritten letter coupled with her act of surrendering the redeemed pawn tickets and thereafter going to the police station can be taken as an analogous

<sup>72</sup> G.R. No. 198904, December 11, 2013, 712 SCRA 622.

<sup>73</sup> Id. at 634.

<sup>74</sup> REVISED PENAL CODE, Article 76.

<sup>75</sup> See *People v. Ocdan*, 665 Phil. 268, 294 (2011).

<sup>76</sup> *Ringor v. People*, supra note 72, at 634.

circumstance of voluntary surrender under Article 13, paragraph 10<sup>77</sup> in relation to paragraph 7<sup>78</sup> of the RPC.

Based on the same extrajudicial confession, the petitioner is also entitled to the mitigating circumstance of no intention to commit so grave a wrong under paragraph 3<sup>79</sup> again in relation to paragraph 10 both of Article 13. Based on her letter, the petitioner misappropriated the redemption payments under her custody and control because she was constrained by extreme necessity for money.

This is not to promote monetary crisis as an excuse to commit a crime or to embolden a person entrusted with funds or properties to feloniously access the same, but rather to underscore the utmost consideration in the Court's exercise of its discretionary power to impose penalties, that is - *a guilty person deserves the penalty given the attendant circumstances and commensurate with the gravity of the offense committed*.<sup>80</sup> From such standpoint, the Court finds it prudent that unless the foregoing analogous mitigating circumstances are appreciated in her favor, the petitioner will be penalized excessively.

A reduction in the imposable penalty by one degree is thus in order pursuant to Article 64(5) of the RPC which states that when there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances. As such, the penalty next lower in degree which is *prision mayor* in its medium period should be imposed.

Applying the Indeterminate Sentence Law, the minimum term shall be taken from the penalty next lower or anywhere within the full range of *prision correccional* or six (6) months and one (1) day to six (6) years, while the indeterminate maximum penalty shall be fixed anywhere within the range of *prision mayor* in its medium period or eight (8) years and one (1) day to ten (10) years. The penalty imposed by the CA should thus be modified to conform to the foregoing findings.

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<sup>77</sup> Art 13. *Mitigating circumstances*. - The following are mitigating circumstances:

x x x x

10. And, finally, any other circumstances of a similar nature and analogous to those above-mentioned.

<sup>78</sup> Art 13. *Mitigating circumstances*. - The following are mitigating circumstances:

x x x x

7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution.

<sup>79</sup> Art. 13. *Mitigating circumstances*. - The following are mitigating circumstances;

x x x x

3. That the offender had no intention to commit so grave a wrong as that committed.

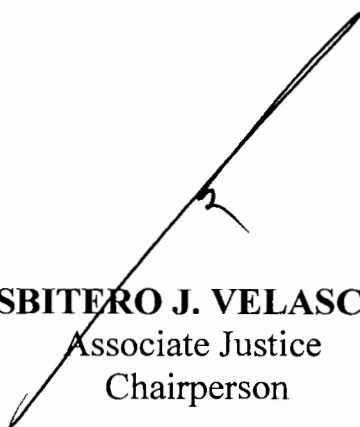
<sup>80</sup> *Perez v. People, et al.*, 568 Phil. 491, 524 (2008).


**WHEREFORE**, premises considered, the Decision dated July 29, 2009 of the Court of Appeals in CA-G.R. CR No. 30909 is **AFFIRMED with MODIFICATION** as to the imposed penalty such that the petitioner, Ma. Paz Fronteras y Ilagan, is sentenced to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional* as *minimum* to ten (10) years of *prision mayor* as *maximum*.

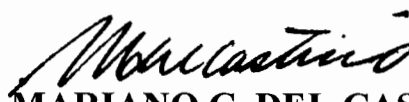
**SO ORDERED.**


  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson


  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

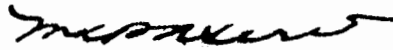
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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