



Republic of the Philippines  
**Supreme Court**  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapidan*  
 WILFREDO V. LAPIDAN  
 Division Clerk of Court  
 Third Division  
 JAN 06 2016

**THIRD DIVISION**

**FRANCISCO T. INOCENCIO,**  
 Petitioner,

**G.R. No. 205760**

Present:

VELASCO, JR., J.,  
*Chairperson,*  
 PERALTA,  
 VILLARAMA, JR.,  
 PEREZ,\* and  
 REYES, JJ.

- versus -

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

Promulgated:

**November 9, 2015**

*Wilfredo V. Lapidan*

X-----X

**RESOLUTION**

**REYES, J.:**

The instant Petition for Review on *Certiorari*<sup>1</sup> assails the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals (CA), dated September 20, 2012 and February 13, 2013, respectively, in CA-G.R. CR No. 30621, which modified the Joint Decision<sup>4</sup> rendered on March 25, 2006 by the Regional Trial Court (RTC) of Mandaluyong City, Branch 214, convicting Francisco T. Inocencio (petitioner) of two counts of Theft.

\* Additional Member per Raffle dated November 3, 2014 *vice* Associate Justice Francis H. Jardeleza.

<sup>1</sup> *Rollo*, pp. 7-30.

<sup>2</sup> Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr. concurring; *id.* at 33-60.

<sup>3</sup> *Id.* at 61.

<sup>4</sup> Rendered by Judge Edwin D. Sorongon; *CA rollo*, pp. 44-52.

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### Antecedent Facts

As summed up by the Office of the Solicitor General (OSG), the prosecution's version of the facts is as follows:

Petitioner was an employee of the then Far East Bank and Trust Company (FEBTC) from April 1978 to August 1998. Petitioner's last position therein was manager of the Automated Teller Machine (ATM) Services Department Cash Management Division. As manager of said division, petitioner had control, possession, and custody of bank money amounting up to One Hundred Million Pesos. As an FEBTC employee, petitioner had an FEBTC payroll/ATM account. Through his ATM card and its Personalized Identification Number known only to him, petitioner could inquire about his balance, transfer money to and from his ATM account, and pay his bills.

Sometime in 1998, Liza Sarao (Sarao), an audit officer at FEBTC's Boni Avenue [Mandaluyong City] branch, conducted a special audit on said branch to investigate reported anomalous transactions performed by petitioner and the branch trade officer, Ma. Milagros T. Clemente (Clemente).

Sarao alleged, *inter alia*, that: (1) on February 9, 1994, Clemente fraudulently credited the amount of One Million One Hundred Fifty Thousand Six Hundred Thirty-Four Pesos and Seventy-Four Centavos (Php 1,150,634.74) to FEBTC Account No. 515-12910-8, belonging to her relative, Theresa Clemente;<sup>5</sup> (2) **One Million Two Hundred Sixty-Two Thousand Seven Hundred Seventy-Four Pesos and Fifty Centavos (Php 1,262,774.50) was fraudulently transferred to petitioner's FEBTC Account No. 5115-12827-6** in three (3) transactions: (a) Five Hundred Sixty-Two Thousand Seven Hundred Seventy-Four Pesos and Fifty-Two Centavos (Php 562,774.52); (b) Four Hundred Thousand Pesos (Php 400,000.00); and (c) Three Hundred Thousand Pesos (Php 300,000.00); and (3) Petitioner later withdrew the whole amount, as evidenced by the deposit and withdrawal slips stored in FEBTC's Central Operation[s] Department.

Sarao also claimed that the funding of petitioner's FEBTC Account No. 5115-12827-6 came from unauthorized terminations of the placements of other FEBTC clients. Bank records did not show that petitioner had placements in FEBTC.

Florentino Bartolome, Jr. (Bartolome), officer-in-charge of the records unit of FEBTC under its Central Operations Department in Intramuros, Manila, received a request to retrieve documents concerning the theft cases against petitioner. Using the available microfilm, microfiche<sup>6</sup> and CD-ROM's in his office, Bartolome was able to retrieve

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<sup>5</sup> Sometimes appears in the records as "Teresita Clemente."

<sup>6</sup> A microfiche is a wide laser printer which utilizes film rolls and produces images or reports. All bank statements of the clients are stored in microfiche. FEBTC's Information Technology department downloads data from the mainframe (main computer with networks) into the microfiche; TSN, June 22, 2000, pp. 8-9.

certain documents, which he presented in court. Ma. Theresa Vierneza (Vierneza), Head of the Information Technology Group of FEBTC, confirmed that the documents presented and identified by Bartolome were the same documents processed by Bartolome's office.<sup>7</sup> (Citations omitted and emphasis in the original)

The petitioner, on the other hand, claimed that he only learned of the criminal cases filed against him while he was in the United States of America in 1998. He returned to the Philippines and inquired from Far East Bank and Trust Company's (FEBTC) investigating committee the basis of the charges against him. However, none of the committee's reports and documents was shown to him. He admitted that Ma. Milagros T. Clemente (Clemente) is his friend, but denied knowledge of the latter's fraudulent transactions. He did not dispute ownership of FEBTC Savings Account No. 5115-12827-6, but he insisted that the money in his personal account was owned by him as proceeds from the piggery business, which he established with Clemente and their other friends. He admitted having delivered pre-signed blank personal checks to Clemente but it was in pursuit of their business. Besides, at that time, he knew that his Current Account No. 5015-01498-9 had no funds, thus, Clemente cannot benefit therefrom.<sup>8</sup>

Five Informations<sup>9</sup> charging acts of theft allegedly committed in conspiracy with Clemente were filed against the petitioner before the RTC.

### **Rulings of the RTC and the CA**

On March 25, 2006, the RTC convicted the petitioner of two counts of theft as charged in the Informations in Criminal Case Nos. MC 99-1456 and MC 99-1457. The dispositive portion of the RTC decision reads:

WHEREFORE, judgment is rendered by this court finding the [petitioner] GUILTY beyond reasonable doubt of the crime of theft as follows:

In Criminal Case No. MC 99-1456, [the petitioner] is sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS and to indemnify [FEBTC] the amount of P1,262,774.50.

In Criminal Case No. MC 99-1457, [the petitioner] is sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS and to indemnify [FEBTC] the amount of P450,000.00.

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<sup>7</sup> *Rollo*, pp. 71-73.

<sup>8</sup> *Id.* at 73-74.

<sup>9</sup> *CA rollo*, pp. 19-28.

[In the] [m]eantime, for failure of the prosecution to prove the guilt of the [petitioner] in Criminal Cases Nos. MC[ ]99-1458, MC[ ]99-1459 and MC[ ]99-1460, [the petitioner] is hereby ACQUITTED of the charge[s] in these cases.

SO ORDERED.<sup>10</sup>

The RTC found that the prosecution had proven the elements of theft as far as Criminal Case Nos. MC 99-1456 and MC 99-1457 are concerned. On January 7, 1994 and February 9, 1994, the amounts of ₱450,000.00 and ₱1,262,774.50 were fraudulently credited by Clemente to the petitioner's savings and current accounts, then withdrawn later. Liza Sarao (Sarao) discovered the anomalies through the special audit she conducted in FEBTC's Boni Avenue branch. Florentino Bartolome, Jr. (Bartolome) retrieved the documents in support of Sarao's findings.<sup>11</sup>

The RTC found no credence in the petitioner's bare claim that the money in his accounts were proceeds from the piggery business. The RTC likewise considered the circumstance that the petitioner had ascribed no ill motives against any of the prosecution witnesses impelling them to testify against him. Further, the presumption provided for in Section 3(j), Rule 131 of the Rules of Court applies in the instant case — a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act.<sup>12</sup>

The RTC, thus, concluded that the prosecution had proven by sufficient circumstantial evidence that the petitioner took money belonging to FEBTC.<sup>13</sup>

On September 20, 2012, the CA rendered the herein assailed Decision, partly granting the petitioner's appeal. The decretal portion of the CA decision is quoted below:

**WHEREFORE**, the instant appeal is **PARTIALLY GRANTED**. The 25 March 2006 Decision of the [RTC] of Mandaluyong City, Branch 214 is hereby **MODIFIED** to read as follows:

“**WHEREFORE**, judgment is rendered by this Court finding the [petitioner] **GUILTY** beyond reasonable doubt of the crime of Theft as follows:

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<sup>10</sup> Id. at 52.  
<sup>11</sup> Id. at 47-49.  
<sup>12</sup> Id. at 50-51.  
<sup>13</sup> Id. at 51-52.

In **Criminal Case No. MC[ ]99-1456**, [the petitioner] is sentenced to suffer the penalty of imprisonment in the **minimum period of SIX (6) YEARS to a maximum period of TWENTY (20) YEARS and to indemnify [FEBTC] in [sic] the amount of P1,262,774.50.**

In **Criminal Case No. MC[ ]99-1457**, [the petitioner] is hereby **ACQUITTED for failure of the prosecution to prove the [petitioner's] guilt beyond reasonable doubt.**

[In the] [m]eantime, for failure of the prosecution to prove the guilt of the [petitioner] in **Criminal Cases Nos. MC[ ]99-1458, MC[ ]99-1459 and MC[ ]99-1460**, [the petitioner] is hereby **ACQUITTED** of the charge[s] in these cases.

**SO ORDERED.”**

**SO ORDERED.**<sup>14</sup> (Emphasis in the original)

In rendering one, instead of two convictions, and modifying the penalty imposed by the RTC, the CA explained that:

[B]ased on the records, [the petitioner] **admitted ownership of the following bank accounts: (1) 2100-93570-4; (2) 0101-90300-6; (3) 5115-12827-6; and (4) 5015-01498-9.** These accounts, per records of the bank, **were the very accounts** where the claimed illegally-credited amounts were kept before they were ultimately withdrawn or otherwise disposed of by [the petitioner]. Especially so that [the petitioner] further admitted that the checks issued to allow the removal of the money from the bank were signed by him.

x x x x

x x x [T]he elements of theft are as follows:

- “1. That there be **taking of personal property**;
2. That said property belongs to another;
3. That the taking be done with intent to gain;
4. That the taking be done without the consent of the owner; and
5. That the taking be accomplished without the use of violence against or intimidation of persons or force upon things.” x x x

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<sup>14</sup> *Rollo*, pp. 59-60.

Pertinently, a conspiracy is proved by evidence of actual cooperation; of acts indicative of an agreement, a common purpose or design, a concerted action or concurrence of sentiments to commit the felony and actually pursue it.

In **Criminal Case [No.] MC 99-1456 committed on February 9, 1994, both the taking of the money and the conspiracy** were sufficiently proved by the prosecution by way of circumstantial evidence and/or judicial admissions of [the petitioner] himself establishing: (1) that **[the petitioner] opened and owns the four subject accounts in the bank;** (2) that money belonging to the bank amounting to One Million One Hundred Fifty Thousand Six Hundred Thirty-One Pesos and Seventy-Four centavos (P1,150,631.74) was transferred by [Clemente] as proceeds from placement to the account of one Teresita Clemente; (3) that **on the same day, the amount of One Million Two Hundred Sixty-Two Thousand Seven Hundred Seventy-Four Pesos and Fifty centavos (P1,262,774.50) was transferred by [Clemente] from Teresita Clemente's account to [the petitioner's] account number 5115-12827-6;** (4) that the same money ultimately ended up in **[the petitioner's Current] [A]ccount [N]umber 5015-01498-9;** and (5) that **[the petitioner] finally disposed of the money by issuing a check for the same amount.**

While no direct evidence was established showing that [the petitioner] literally and physically took the money from the bank, We agree with the court *a quo's* finding that there was, indeed, **enough circumstantial evidence proving his guilt. Such pieces of evidence prevent Us from reversing the lower court's conviction in MC 99-1456.**

More so that **Section 4 of Rule 133** of the Rules of Court provides:

“SEC. 4. *Circumstantial evidence, when sufficient.* - Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.”

The combination of all the foregoing circumstances undeniably, and beyond reasonable doubt, show that [the petitioner], **conspiring with Clemente, TOOK money BELONGING TO THE BANK with INTENT TO GAIN** but without use of violence against or intimidation of persons or force upon things.

**Pitted against the [petitioner's] defense of denial, We are convinced that there is sufficient evidence establishing his guilt of theft in MC 99-1456 beyond reasonable doubt.** Well established is the rule that denials if unsubstantiated by clear and convincing evidence are **negative, self-serving evidence which deserve no weight in law and**

**cannot be given greater evidentiary weight over the testimony of credible witnesses who testify on affirmative matters.**

[The petitioner] further attempts to cast doubt on his conviction by claiming that there was no allegation of conspiracy in the Informations filed against him.

X X X X

It is settled that the act of conspiring and all the elements of the crime is required to be alleged in the complaint or information **only when conspiracy is charged as a crime.**

The requirements on sufficiency of allegations are different when conspiracy is **not** charged as a crime in itself but **only as the mode of committing the crime as in the case at bar.** There is less necessity of reciting its particularities in the Information because conspiracy is not the gravamen of the offense charged.

Besides, it is settled that an information alleging conspiracy can stand **even if only one person is charged** (except that the court cannot pass verdict on the co-conspirators who were not charged in the information).

#### **Criminal Case No. MC 99-1457**

In **Criminal Case No. MC [99-1457, however,** it is Our view that the **prosecution failed to prove [the petitioner's] participation in the theft alleged** when it failed to present in evidence the check allegedly issued by the latter in order to supposedly withdraw the money from the bank. Without this evidence linking [the petitioner] to the theft in Criminal Case No. MC 99-1457, his right to be presumed innocent until proven guilty stands.

The penalty for simple theft under the Revised Penal Code is as follows:

“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

The penalty of *prision mayor* in its minimum and medium periods has a range of six (6) years and one (1) day to ten (10) years. Its maximum period is eight (8) years, eight (8) months and one (1) day to ten (10) years; since the incremental penalty in the instant case exceeds the maximum of twenty (20) years, following the above provision, **the maximum imposable penalty for [the petitioner] is 20 years.**

Applying the **Indeterminate Sentence Law** (RA 4103), the imposable penalty therefore shall be anywhere between two (2) years, four (4) months and one (1) day of *prision correccional* minimum to six (6) years of *prision correccional* maximum as minimum and the period of twenty (20) years as maximum.<sup>15</sup> (Citations omitted and emphasis in the original)

In the herein challenged Resolution<sup>16</sup> dated February 13, 2013, the CA denied the petitioner's motion for reconsideration.

### Issues

Aggrieved, the petitioner now presents before the Court the issues of whether or not the CA committed serious and reversible error: (1) in deciding contrary to the doctrines that (a) venue in criminal case is jurisdictional, and (b) criminal liability, absent any conspiracy, is purely personal; and (2) in holding that the circumstances surrounding the instant case should rule out his innocence.<sup>17</sup>

In support of the issues raised, the petitioner avers that Sarao's casual reference to "Boni" or "Boni Avenue" branch does not exclude the possibility that the crime was committed not in Mandaluyong City, but somewhere else in the country.<sup>18</sup>

Further, the petitioner is the sole accused in the case at bar, and in the Information filed relative to Criminal Case No. MC 99-1456, there is no allegation of conspiracy between him and Clemente.<sup>19</sup> Therefore, he cannot be convicted of criminal acts committed by Clemente.<sup>20</sup>

The petitioner likewise emphasizes that there is no extant evidence pointing to the fact that he stepped foot and physically withdrew money in FEBTC's Boni Avenue branch around the time the fraudulent transaction took place in February 9, 1994.<sup>21</sup> Besides, Sarao herself admitted the

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<sup>15</sup> Id. at 53-59.

<sup>16</sup> Id. at 61.

<sup>17</sup> Id. at 12-13.

<sup>18</sup> Id. at 14-15.

<sup>19</sup> Id. at 17.

<sup>20</sup> Id. at 20.

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

possibility that money could have been credited to the petitioner's account without his knowledge.<sup>22</sup>

The OSG, on the other hand, argues that the Information unequivocally charges that the theft was committed in Boni Avenue, Mandaluyong City.<sup>23</sup>

Moreover, the elements of theft are present in the instant case. Specifically, the money belonged to FEBTC. Sarao, through the records stored in FEBTC's Central Operations Department, was able to trail the movement of the money, which was eventually withdrawn from the petitioner's current account. The money was drawn through the issuance of a check indicating the amount of ₱1,262,774.50, which was indisputably signed by the petitioner. The prosecution had presented as evidence the microfilm copy of the said check.<sup>24</sup>

The OSG likewise reiterates the CA's disquisition that the congruence of circumstances attendant to the instant case amply proved the petitioner's guilt beyond reasonable doubt.<sup>25</sup>

The OSG also contends that the Information sufficiently states that the taking, stealing and carrying away of FEBTC's money in the amount of ₱1,262,774.50 was done with Clemente, a Marketing Assistant/Trader of FEBTC, Boni Avenue, Mandaluyong City Branch.<sup>26</sup>

The OSG further points out that the petitioner presented no evidence to show the legitimate origin of the money which found its way into his account, or any improper motives which any of the witnesses could have harbored against the latter.<sup>27</sup>

### **Ruling of the Court**

*The instant petition has no merit. However, the Court modifies the CA's decision by directing the payment of interest upon the indemnity due to FEBTC.*

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<sup>22</sup> Id. at 23-24.

<sup>23</sup> Id. at 76.

<sup>24</sup> Id. at 77-78.

<sup>25</sup> Id. at 79.

<sup>26</sup> Id. at 80; *CA rollo*, p. 19.

<sup>27</sup> *Rollo*, pp. 80-81.

The Court need not delve on the jurisdictional issue raised by the petitioner as the arguments are trifling and the CA had already amply disposed of the same.<sup>28</sup>

**In the Information filed, conspiracy was sufficiently alleged merely as a mode of committing the crime.**

As the second issue, the petitioner argues that the prosecution made a faulty allegation of conspiracy in the Information filed with the RTC.

In *Lazarte, Jr. v. Sandiganbayan (First Division), et al.*,<sup>29</sup> the Court is emphatic that:

Notably, in *People v. Quitlong*, as pointed out by respondent, the Court ruled on how conspiracy as a mode of committing the offense should be alleged in the Information, *viz*:

X X X X

A conspiracy indictment need not, of course, aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of the conspiracy. Neither is it necessary to describe conspiracy with the same degree of particularity required in describing a substantive offense. It is enough that the indictment contains a statement of facts relied upon to be constitutive of the offense in ordinary and concise language, with as much certainty as the nature of the case will admit, in a manner that can enable a person of common understanding to know what is intended, and with such precision that the accused may plead his acquittal or conviction to a subsequent indictment based on the same facts. It is said, generally, that an indictment may be held sufficient “if it follows the words of the statute and reasonably informs the accused of the character of the offense he is charged with conspiring to commit, or, following the language of the statute, contains a sufficient statement of an overt act to effect the object of the conspiracy, or alleges both the conspiracy and the contemplated crime in the language of the respective statutes defining them (15A C.J.S. 842-844).

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<sup>28</sup> Id. at 51-52.

<sup>29</sup> 600 Phil. 475 (2009).

x x x Conspiracy arises when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy comes to life at the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith to actually pursue it. Verily, the information must state that the accused have confederated to commit the crime or that there has been a community of design, a unity of purpose or an agreement to commit the felony among the accused. Such an allegation, in the absence of the usual usage of the words “conspired” or “confederated” or the phrase “acting in conspiracy,” must aptly appear in the information in the form of definitive acts constituting conspiracy. In fine, the agreement to commit the crime, the unity of purpose or the community of design among the accused must be conveyed such as either by the use of the term “conspire” or its derivatives and synonyms or by allegations of basic facts constituting the conspiracy. Conspiracy must be alleged, not just inferred, in the information on which basis an accused can aptly enter his plea, a matter that is not to be confused with or likened to the adequacy of evidence that may be required to prove it. In establishing conspiracy when properly alleged, the evidence to support it need not necessarily be shown by direct proof but may be inferred from shown acts and conduct of the accused.<sup>30</sup> (Citations omitted and underlining ours)

In the case at bench, the Information in Criminal Case No. MC 99-1456 reads:

That on or about the 9th day of February 1994, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the [petitioner], with intent to gain and without the knowledge and consent of [FEBTC], Boni Avenue, Mandaluyong Branch, did then and there *willfully, unlawfully and feloniously take, steal and carry away from [FEBTC] in the total amount of P1,262,774.50 with [Clemente],* a Marketing Assistant/Trader of [FEBTC], Boni Avenue, Mandaluyong Branch, fraudulently and illegally crediting the aforesaid amount to the [petitioner’s] Account Number 5115-12827-6 with [FEBTC], through credit memo and accounting entries to the damage and prejudice of [FEBTC] in the aforementioned amount.

CONTRARY TO LAW.<sup>31</sup> (Italics ours)

In the instant case, conspiracy is alleged only as a mode of committing the crime. The Court finds that the Information filed against the petitioner adequately complied with the requirements as set forth in *Lazarte*. The Information charges that the petitioner, *with Clemente*, took FEBTC’s

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<sup>30</sup> Id. at 494-495.

<sup>31</sup> CA *rollo*, p. 19.

money through fraudulent transfers to and withdrawal from the former's Account Number 5115-12827-6. Although the words "*conspire*" and "*confederated*" do not appear in the indictment, there is a clear allegation that the petitioner and Clemente were united in their purpose of fraudulently taking FEBTC's money. The Information, thus, enables the petitioner to amply prepare for his defense.

In *Tan, Jr. v. Sandiganbayan*,<sup>32</sup> cited by the CA, the Court declared that "an information alleging conspiracy can stand even if only one person is charged except that the court cannot pass verdict on the co-conspirators who were not charged in the information."<sup>33</sup> Ideally, Clemente and the petitioner should have been indicted together. However, the non-inclusion of Clemente does not invalidate the Information filed against the petitioner especially since conspiracy is not charged as a crime, but is merely alleged to show how criminal liability was incurred.

**Circumstantial evidence concur leading to the conclusion that the petitioner is guilty beyond reasonable doubt of the charge against him.**

The petitioner claims that the circumstantial evidence offered by the prosecution do not add up to prove his guilt beyond reasonable doubt. This, too, deserves short shrift.

In addition to the circumstances<sup>34</sup> which the CA had already considered in the prosecution's favor, the Court finds those discussed below as determinative of the petitioner's guilt as well.

*First*, it is presumed that a person takes ordinary care of his concerns<sup>35</sup> and that the ordinary course of business has been followed.<sup>36</sup> The petitioner in this case was a bank officer. He can be reasonably charged with knowledge of banking procedures and the liabilities which may attach to him by reason of maintaining current accounts. It perplexes the Court why he delivered blank checks to Clemente and subsequently not even bothered to inquire about the status of the said checks and his current account against which the checks may be drawn.<sup>37</sup> The Court further finds no credence in his claim that he received no statements or notices relative to his current

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<sup>32</sup> 354 Phil. 463 (1998).

<sup>33</sup> Id. at 471.

<sup>34</sup> *Rollo*, pp. 55-56.

<sup>35</sup> RULES OF COURT, Rule 131, Section 3(d).

<sup>36</sup> RULES OF COURT, Rule 131, Section 3(q).

<sup>37</sup> TSN, February 10, 2004, p. 18; TSN, February 18, 2004, pp. 21-22.

account in FEBTC's Boni Avenue branch.<sup>38</sup> Bartolome testified that checks are microfilmed, and thereafter, the originals are returned to the account holder.<sup>39</sup> He also stated that bank statements are sent to the account holders on or before every 15<sup>th</sup> day of the month.<sup>40</sup> The petitioner ascribed no ill motive against Bartolome and the former had not offered any evidence to show why FEBTC would have treated his accounts as exceptions by not sending back to him the original check which was cleared and the bank statements indicating any transactions relative to his accounts. It bears stressing that the petitioner's employment was only severed in 1998 while the anomalous transfers and withdrawal occurred in 1994. The petitioner had four years, more or less, to inquire from FEBTC itself or from Clemente the details about the transfers and withdrawal. During the trial, he pleaded lack of knowledge about the transactions. This does not inspire belief.

*Second*, the petitioner testified that the piggery business he set up with Clemente and their other friends folded up after three months.<sup>41</sup> He also claimed that he delivered signed blank checks to Clemente because the latter was the one controlling the finances of their piggery business.<sup>42</sup> The Court, however, notes that while the fraudulent transaction which is the subject of the instant petition occurred on February 9, 1994, the petitioner also testified that in September of 1996, his payroll account was credited with ₱38,000.00 and ₱15,000.00.<sup>43</sup> He withdrew the amounts as they belonged to him as profits from their piggery business. While claiming that the piggery business lasted only for three months, the petitioner at the same time alleged that after more than two years, he still received profits from the said business. The inconsistencies fail to lend credit to the petitioner's assertions.

**No compelling grounds exist for the Court to reverse the uniform factual findings of the RTC and the CA anent the petitioner's guilt in Criminal Case No. MC 99-1456.**

It is settled that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings.<sup>44</sup> The foregoing rule finds an even more stringent application where said findings are sustained by the CA.<sup>45</sup>

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<sup>38</sup> TSN, July 6, 2004, pp. 4-5.

<sup>39</sup> TSN, June 22, 2000, pp. 5-6.

<sup>40</sup> Id. at 13.

<sup>41</sup> TSN, February 10, 2004, pp. 12-13.

<sup>42</sup> TSN, July 6, 2004, pp. 3-4.

<sup>43</sup> Id. at 6-7.

<sup>44</sup> *People v. Del Monte*, 575 Phil. 576, 588 (2008).

<sup>45</sup> Id.

In the case at bar, both the RTC and the CA found that the prosecution was able to discharge the burden of proof imposed upon it as regards the liability of the petitioner in Criminal Case No. MC 99-1456. No compelling grounds exist for the Court to depart from the RTC and CA's findings.

**The Court, however, directs the imposition of legal interest upon the amount of indemnity due to FEBTC.**

In line with prevailing jurisprudence relative to criminal actions, interest at the rate of six percent (6%) *per annum* shall be imposed on all the damages awarded, to be reckoned from the date of the finality of this resolution until full satisfaction thereof.<sup>46</sup>

**IN VIEW OF THE FOREGOING**, the Decision dated September 20, 2012 and Resolution dated February 13, 2013 of the Court of Appeals in CA-G.R. CR No. 30621 are **AFFIRMED** subject only to the **MODIFICATION** that in Criminal Case No. MC 99-1456, **FRANCISCO T. INOCENCIO** is directed to indemnify **Far East Bank and Trust Company** the amount of **₱1,262,774.50**, which shall be subject to **INTEREST** at the rate of six percent (6%) *per annum* to be computed from the date of the finality of this resolution until full satisfaction thereof.

**SO ORDERED.**

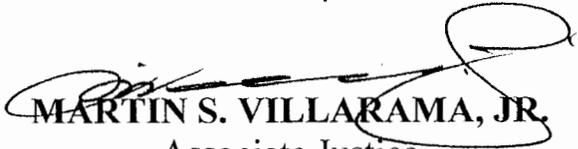
  
**BIENVENIDO L. REYES**  
Associate Justice

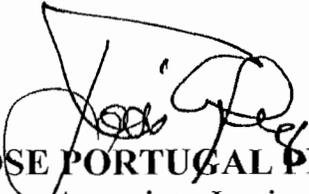
**WE CONCUR:**

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

<sup>46</sup> Please see *People v. Cruz*, G.R. No. 201728, July 17, 2013, 701 SCRA 548, 559-560.

  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

**ATTESTATION**

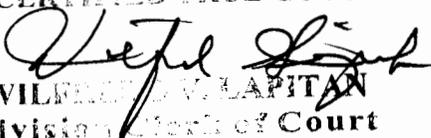
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**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 Resolution 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

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
**JAN 06 2016**