

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AQUINO MINGOA, DEFENDANT AND APPELLANT.

G. R. No. L-5371. March 26, 1953

Ponente: REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1d1cc81fab97/>

REYES, J.:

Found short in his accounts as officer-in-charge of the office of the municipal treasurer of Despujols, Romblon, and unable to produce the missing fund amounting to P3,938 upon demand by the provincial auditor, the defendant Aquino Mingoa was prosecuted for the crime of malversation of public funds in the Court of First Instance of Romblon, and having been found guilty as charged and sentenced to the corresponding penalty, he appealed to the Court of Appeals. But that court certified the case here on the ground that it involved a constitutional question.

The evidence shows that it is not disputed that upon examination of his books and accounts on September 1, 1949, defendant, as an accountable officer, was found short in the sum above named and that, required to produce the missing fund, he was not able to do so. He explained to the examining officer that some days before he had, by mistake, put the money in a large envelope which he took with him to a show and that he forgot it on his seat and it was not there anymore when he returned. But he did not testify in court and presented no evidence in his favor.

We agree with the trial judge that defendant's explanation is inherently unbelievable and cannot overcome the presumption of guilt arising from his inability to produce the fund which was found missing. As His Honor observes, if the money was really lost without defendant's fault, the most natural thing for him to do would be to so inform his superiors and apply for release from liability. But this he did not do. Instead, he tried to borrow to cover the shortage. And on the flimsy excuse that he preferred to do his own sleuthing, he even did not report the loss to the police. Considering further, as the prosecution points out in its brief, that defendant had at first tried to avoid meeting the auditor who wanted to examine his accounts, and that for sometime before the alleged loss many teachers and other employees of the town had not been paid their salaries, there is good ground to believe that defendant had really malversed the fund in question and that his story about its loss was pure invention.

It is now contended, however, that lacking direct evidence of actual misappropriation the trial court convicted defendant on mere presumptions, that is, presumption of criminal intent in losing the money under the circumstances alleged and presumption of guilt from the mere fact that he failed, upon demand, to produce the sum lacking. The criticism as to the first presumption is irrelevant, for the fact is that the trial court did not believe defendant's explanation that the money was lost, considering it a mere cloak to cover actual misappropriation. That is why the court said that "whether or not he (defendant) is guilty of malversation for negligence is of no moment * * *." And as to the other presumption, the same is authorized by article 217 of the Revised Penal Code, which provides:

"The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use."

The contention that this legal provision violates the constitutional right of the accused to be presumed innocent until the contrary is proved cannot be sustained. The question of the constitutionality of the statute not having been raised in the court below, it may not be considered for the first time on appeal. (Robb vs. People, 68 Phil., 320.)

In any event, the validity of statutes establishing presumptions in criminal cases is now a settled matter, Cooley, in his work on constitutional limitations, 8th ed., Vol. I, pp. 639-641, says that "there is no constitutional objection to the passage of a law providing that the presumption of innocence may be overcome by a contrary presumption founded upon the experience of human conduct, and enacting what evidence shall be sufficient to overcome such presumption of innocence." In line with this view, it is generally held in the United States that the legislature may enact that when certain facts have been proved they shall be prima facie evidence of the existence of the guilt of the accused and shift the burden of proof provided there be a rational connection between the facts proved and the ultimate fact presumed so that the inference of the one from proof of the others is not unreasonable and arbitrary because of lack of connection between the two in common experience. (See annotation on constitutionality of statutes or ordinances making one fact presumptive or prima facie evidence of another, 162 A. L. R. 495-535; also, State vs. Brown, 182 S. E., 838, with reference to embezzlement.) The same view has been adopted here as may be seen from the decisions of this court in the U.S. vs. Tria, 17 Phil., 303; U.S. vs. Luling, 34 Phil., 725; and People vs. Merilo, G. R. No. L-3489, promulgated June 28, 1951.

The statute in the present case creates a presumption of guilt once certain facts are proved. It makes the failure of a public officer to have duly forthcoming, upon proper demand, any public funds or property with which he is chargeable prima facie evidence that he has put such missing funds or property to personal use. The ultimate fact presumed is that the officer has malversed the funds or property entrusted to his custody, and the presumption is made to arise from proof that he has received them and yet he has failed to have them forthcoming upon proper demand. Clearly, the fact presumed is but a natural inference from the fact proved, so that it cannot be said that there is no rational connection between the two. Furthermore, the statute establishes only a prima facie presumption, thus giving the accused an opportunity to present evidence to rebut it. The presumption is reasonable and will stand the test of validity laid down in the above citations.

There being no reversible error in the decision appealed from, the same is hereby affirmed, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

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.