

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PACIFICO CONWI, JR., DEFENDANT-APPELLANT.***G.R. No. L-48895. September 04, 1985*

Ponente: CONCEPCION, JR., J.

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Pacifico Conwi, Jr. was charged in the Court of First Instance of Rizal with the crime of Malversation of Public Funds through Falsification of Public Documents committed in four (4) instances. After due trial, he was found guilty as charged and sentenced to suffer the penalty of reclusion perpetua in each count, to pay a fine in the sum of P544,884.00 and to indemnify the Government of the Philippines in the same amount. From that judgment, he appealed.

It is of record that from the period November 21, 1966 to February 20, 1967, the defendant was employed as postmaster of Makati, Rizal. As such employee, he was under obligation to keep books of account and to turn over to the National Treasury all collections of national funds in excess of P500.00 or to procure, in exchange therefor, checks of the Philippine National Bank, the official depository of the government. In compliance with this obligation, the defendant made out and signed remittance advices making it appear that on November 21, 1966, December 19, 1966, January 11, 1967, and February 29, 1967, the amounts of P176,167.25, P207,574.56, P111,142.26, and P50,000.00, respectively, were deposited or remitted to the National Treasury. It later developed that the said amounts were not deposited or remitted to the National Treasury to the damage and prejudice of the government.

The defendant denied the accusation and maintained that the re-mittance advices in question are genuine. He relied heavily on the fact that audit examiners have previously examined his books of account and found them to be in order.

We have carefully examined the evidence adduced at the trial and are thoroughly satisfied that the trial court was quite correct in its assessment of the evidence as to the falsity of the remittance advices in question. The Court said:

"REMITTANCE ADVICE NO. 67-13:

"Remittance Advice No. 67-13, Exhibit M, which the accused prepared, purports to be evidence of the fact that on November 21, 1966, the National Treasurer re-ceived from the accused the sum of P176,167.25. Speci-fically, Exhibit M was supposed to have been received by Teller No. 4, who had coursed the same through his validating machine as shown by the printed receipt number - '#4-174', appearing on its face. But, as correctly pointed out by Chief Analyst Vicente Rodriguez, said re-mittance advice could not have been received by Teller No. 4 and could not have passed through the latter's validating machine because on November 21, 1966, the highest receipt number recorded on the tape of validating machine No. 4 was only '#4-046'. The pertinent tape, Exhibit S, which was presented by the prosecution and which was shown to be the auditor's copy of the tape of the validating machine of Teller No. 4 on said date, clearly substantiates the claim of Chief Fiscal Analyst Rodriguez on this point.

"Likewise, the daily abstract routinely prepared by the Office of the National Treasurer which summarized the deposits received by Teller No. 4 on November 21, 1966, Exhibit T, further corroborates the claim of Chief Fiscal Analyst Vicente Rodriguez. As a cursory examination of Exhibit T will show, there is nothing therein to indicate that on November 21, 1966 the National Treasurer received from the accused any remittance in his capacity as Acting Postmaster of Makati, Rizal. The remittance allegedly covered by Exhibit M is not also reflected in the weekly abstract of deposits received to the credit of the Bureau of Posts, which the prosecution presented in evidence as Exhibit T-4. This weekly abstract of deposits was prepared in accordance with the procedure followed by the Cash Division in the Bureau of Treasury and as such it reflected accurately what was and what was not received by Teller No. 4 in the said Cash Division on November 21, 1966. Like the daily abstract of deposits and the auditor's copy of the tape of the validating machine of Teller No. 4, which recorded the entire collection of Teller No. 4 on November 21, 1966, there is no reason why the weekly abstract of deposits prepared by the office of the National Treasurer should not be given the weight that it rightfully deserves.

"As part of the adopted procedure, the vault auditor who was assigned in the Cash Division of the Bureau of Treasury in 1966 and 1967 was required to sign all remittance advices received by the office. According to Leocadio Aguila, the vault auditor at the time, the signature appearing on the face of Remittance Advice No. 67-13, Exhibit M, was not his, however. He claimed that his signature thereon was forged and this could only mean, according to Auditor Aguila, that said remittance advice did not pass him or was not presented to and received by his office. No reason having been adduced to reject the testimony of Leocadio Aguila on this point, this becomes another circumstance establishing beyond doubt the falsity of the remittance in question.

"Indeed, the assertion of Leocadio Aguila that his signature was forged on Remittance Advice No. 67-13 is a fact that appears to have been fully corroborated. Desiderio Pagui, the acting chief of the Questioned Document Section of the National Bureau of Investigation clearly testified having found the questioned signature of Leocadio Aguila on Exhibit M not to be authentic (Exhibit GG).

"REMITTANCE ADVICE NO. 67-15:

"With respect to Remittance Advice No. 67-15, Exhibit M-1, which purports to have remitted to the National Treasurer on December 19, 1966 the sum of P207,574.56, the same kind of prosecution evidence was presented to prove its falsity. Thus, as testified to by Chief Fiscal Analyst Vicente Rodriguez and Auditor Leocadio Aguila, said remittance advice could not have been received by Teller No. 1 of the Cash Division of the Bureau of National Treasury because the receipt number impressed by the validating machine on Teller No. 1 which was '1-069', pertains to another remittance actually received by said teller. As reflected in the daily abstract of deposits prepared by Teller No. 1 on December 19, 1966, Exhibit T-1-a, said receipt number referred to a remittance validly made by another government agency, the National Mental Hospital, and for a different amount in the sum of P2,897.36. That receipt number '1-069' actually relates to said remittance was established conclusively by the testimony of Virgilio Madrilejos, the Collecting Officer of the National Mental Hospital who positively testified that on said date, December 19, 1966, he remitted to the National Treasury, through the window of Teller No. 1, the sum of P2,897.36.

"On the other hand, the weekly abstract of deposits received to the credit of the Bureau of Posts during the week ending December 19, 1966 (Exhibit T-5) did not reflect receipt of the sum covered by Remittance Advice No. 67-15. It should be emphasized that if Remittance Advice No. 67-15 was actually received by Teller No. 1 on December 19, 1966 as contended by the accused, the fact of its receipt would have been reflected not only in the daily abstract of deposits but also in the weekly abstract of deposits prepared by the office of the National Treasurer. This so because, according to Chief Fiscal Analyst Vicente Rodriguez who described the office procedure adopted in processing remittances of the different government agencies, once a remittance was received by the receiving tellers, through their respective validating machines, the National Cash Accounting Division would then prepare the daily and weekly abstracts of all remittances received by the validating machines, showing the particulars of the deposits made by the different

govern-ment agencies.

"Auditor Leocadio Aguila also testified with respect to Remittance Advice No. 67-15 that the signature appearing thereon was not his and was another forgery. As afore-said, the testimony of Auditor Aguila on this point was fully corroborated by the findings of the handwriting expert of the National Bureau of Investigation and it should be accorded full value.

"Furthermore, as testified to by Chief Fiscal Analyst Vicente Rodriguez, Remittance Advice No. 67-15 was sup-posed to have deposited many treasury warrants in the total sum of P207,574.56. The particulars of these treasury warrants were stated in a list, Exhibit M-1-a, which was attached to Remittance Advice No. 67-15. But according to Chief Fiscal Analyst Rodriguez, as further proof to show that the remittance in question was a fake, even the treasury warrants listed in Exhibit M-1-a were 'over inflated'. The treasury warrants, namely Exhibits BB, BB-1 to BB-42 were listed in Exhibit M-1a as having a value of P100.00 more than what was actually stated on the face of said warrants.

"Moreover, it was also discovered that these forty-three treasury warrants which the accused was trying to deposit under Remittance Advice No. 67-15 on December 19, 1966 were already encashed on December 14, 1966 by the Philippine Trust Company, the last indorsement appearing on said treasury warrants being that of one Corazon S. Castro. In other words, the accused was trying to remit under Remittance Advice No. 67-15 treasury warrants which ought not to be in his possession because they were supposed to be held by the Philippine Trust Company which previously had encashed them. And regarding the treasury warrants, Exhibits BB-43 to BB-45, with a total amount of P35,377.25, Chief Fiscal Analyst Rodriguez testified that these three warrants could not have also been validly remitted by the accused because they have been previously encashed by the accused with Roberto Castro, the Acting Postmaster of Pasay City, who should be the one in possession thereof. To prove that the said warrants were already encashed by the accused with the Acting Postmaster of Pasay City, Chief Fiscal Analyst Vicente Rodriguez testified that as shown in Exhibit BBB, the Acting Postmaster of Pasay City had previously deposited said warrants under Remittance Advice No. 67-7 on November 29, 1966.

"About treasury warrants, Exhibits BB-46 to BB-50, which were also included in the list, Exhibit M-1-a, Chief Fiscal Analyst Vicente Rodriguez testified that these five treasury warrants were likewise previously en-cashed by the accused with Teller No. 1 of the Cash Division in the Office of the National Treasurer on two occasions, namely, on November 21 and December 6, 1966. In other words, under Remittance Advice No. 67-15, the accused was trying to deposit for the second time treasury warrants which he himself had previously deposited with the Na-tional Treasurer.

"REMITTANCE ADVICE NO. 67-16:

"Under the third remittance in question, covered by Remittance Advice No. 67-16, Exhibit M-2, the accused would want it to appear that the National Treasurer re-ceived from him on January 11, 1967 a deposit in the amount of P111,142.26, as evidenced by receipt number '1-030' printed on the face of said advice by the validating machine of Teller No. 1. But again the prosecution was able to show convincingly that the accused could not have made said remittance because the receipt number '1-030' appearing on the face of Exhibit M-2 pertained to the remittance actually made by Gregorio Austria of the National Mental Hospital on said date. Like what happened in Exhibit M-1, both Chief Fiscal Analyst Vicente Rodriguez and Auditor Leocadio Aguila clearly testified that receipt number '1-030' of the validating machine of Teller No. 1 was the receipt number of another deposit, that Remittance Advice No. 14-B of the National Mental Hospital for the sum of P1,236.98, as reflected in Exhibit R. Instead, the daily abstract of the deposits received by Teller No. 1 on January 11, 1967, which was prepared in accordance with office procedure clearly attests to this fact (Exhibit T-2-a).

"In this connection, it is to be noted that Auditor Leocadio Aguila reiterated that the signature appearing on the face of Exhibit M-2, purporting to show that he had countersigned the same on behalf of the Auditor General,

was a forgery, an assertion which as in the case of the other remittances, was fully cor-roborated by the finding of NBI handwriting expert, Desiderio Pagui.

"Furthermore, Chief Fiscal Analyst Vicente Rodri-guez testified that on the fifty-six treasury warrants which were supposed to have been remitted on January 11, 1967 under Remittance Advice No. 67-16, fifty-two war-rants, Exhibits CC, CC-1 to CC-51, were previously en-cashed on January 13, 1967 by one Francisco Castro with the Philippine Trust Company, Paco Branch. After their encashment, these checks were cleared on January 11, 1967, through the Clearing Office of the Central Bank, so that they are considered paid for by the Bureau of Treasury on January 17, 1967. What happened, therefore, was that the accused included in the list of warrants for deposit which he prepared, treasury warrants that he could not have remitted and could not have been received by the National Treasurer on January 11, 1967 because they turned out to be in the possession of a private individual, Francisco Castro, who was able to encash them on January 13, 1967.

"Likewise, it was positively declared by Chief Fiscal Analyst Vicente Rodriguez that treasury warrants Nos. B-01,995-751 to B-01,995-760, which were among those supposed to have been transmitted under Remittance Advice No. 67-16, were previously cashed by the accused himself with Teller No. 1 of the Cash Division of the Bureau of Treasury on December 19, 1967. Although they have been previously cashed and deposited with the Bureau of Treasury, they were, nevertheless, included by the accused in the list of warrants supposed to have been transmitted under Remittance Advice No. 67-16. Undoubted-ly, this is an added circumstance clearly showing the falsity of the remittance in question.

"REMITTANCE ADVICE NO. 67-17:

"The fourth remittance under consideration is covered by Remittance Advice No. 67-17, Exhibit M-4, by virtue of which the accused was supposed to have deposited with Teller No. 1 of the Cash Division of the Bureau of Treasury on February 20, 1967 the P50,000.00. The accused would want it to appear that this remittance advice was duly received by Teller No. 1 and was coursed through the latter's validating machine because it bore on its face the printed receipt number '1-075'. But like in the other questioned remittance advices, Exhibit M-4 could not have also been received or been presented to Teller No. 1 of the Bureau of Treasury by the accused because as clearly testified to by Chief Fiscal Analyst Vicente Rodriguez, the highest receipt number registered on the Auditor's tape of va-lidating machine No. 1 on February 20, 1967 was '1-040'. The auditor's copy of said tape was duly presented by the prosecution as Exhibit S-3 and it clearly supports the claim of Chief Fiscal Analyst Vicente Rodriguez in this regard. Moreover, the daily abstract of deposits received by Teller No. 1 on February 20, 1967; Exhibit T-3, which as aforesaid was prepared in the ordinary course of office procedure, does not show any remittance having been received from the accused as Acting Postmaster of Makati, Rizal on said date. The weekly abstract of deposits received to the credit of the Bureau of Posts ending February 20, 1967, likewise prepared in the ordinary course of office procedure, also failed to reflect the deposit supposed to have been made by the accused under Remittance Advice No. 67-17.

"In addition, the signature of Leocadio Aguila as the representative of the Auditor General and which appeared on the face of Exhibit M-4 was likewise disowned by Leocadio Aguila and was proven as forgery by the NBI handwriting expert.

"Furthermore, under Remittance Advice No. 67-17 the accused was deemed to have deposited on February 20, 1967 five treasury warrants identified as Exhibits DD to DD-4. Upon verification of Chief Fiscal Analyst Vicente Rodriguez and as testified to by him, it was discovered, however, that these treasury warrants were previously encashed by Teller No. 1 of the Cash Division of the Bureau of Treasury on February 16, 1967, as shown in Exhibit AAA, the daily listing of treasury warrants which were paid on that date by the bureau. As in the case of the other questioned remittances, this fact means that the accused listed among those he was trying to deposit under Remittance Advice No. 67-17, treasury warrants already deposited with and encashed by the National Treasurer."

The fact that audit examiners had previously examined the books of accounts of the defendant and found them to be in order is no defense since the said examiners had merely relied upon the imprint of the validating machines on the remittance advices which made the said remittance advices appear genuine on its face and did not conduct a thorough examination of the record to determine whether or not the amounts of money said to have been remitted to the Bureau of Treasury had been actually remitted. In this connection, We sustain the trial court's finding that not much weight should be given to the claim of Primo Almazar and Gonzalo Bernardino, Jr., both Acting Postal Audit Examiners for Southern Rizal who examined the books of account of the defendant in the early part of 1967, that they went to the Cash Division of the Bureau of Treasury and were informed that the remittances in question have been actually made before making a certificate that the books of account of the defendant are in order for the reasons that these two postal examiners failed to identify the employee or official in the Bureau of Treasury who had given them the information; that they failed to ask the Auditor of the Bureau of Treasury or the teller of the bureau who was supposed to have received the remittances whether or not the said remittances in question were actually made; and, finally, they failed to verify from Auditor Leocadio Aguila whether or not the signatures appearing on the remittance advices are his. Had the previous auditors been more thorough in their examination of the defendant's books of account, the malversation of so big an amount of money could have been avoided.

The trial court correctly found the defendant guilty of the crime of malversation of public funds through falsification of public documents committed on four (4) occasions, namely: on November 21, 1966, December 19, 1966, January 11, 1967 and February 20, 1967, and rightly imposed the penalty of reclusion perpetua for each instance in view of the failure of the defendant to object to the duplicity of the offenses charged in the information. The service of said penalties, however, should be understood to be subject to the provisions of Art. 70 of the Revised Penal Code as amended by Commonwealth Act No. 217.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. With costs against the appellant.

SO ORDERED.

Escolin, Cuevas, Alampay, and Patajo, Jr., JJ., concur.
Aquino, (Chairman), and Abad Santos, JJ., on leave.

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