

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS., VICENTE ANGCO, DEFENDANT AND APPELLANT.

G.R. No. L-9550. February 28, 1958

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a43450694345/>

PADILLA, J.:

Vicente Angco was charged in the Court of First Instance of Manila with the crime of malversation of public funds in information which reads, as follows:

That in, about and during the years 1950 and 1951, in the City of Manila, Philippines, the said accused, being then Travelling Sales Agent of the Philippine Charity Sweepstakes Office, in said City, with headquarters at Tuguegarao, Cagayan, charged with selling sweepstakes tickets entrusted to him for sale in his district, with the obligation of turning over the proceeds of the sale of said tickets to the Treasurer of the Philippine Charity Sweepstakes Office in Manila, not later than one week before the corresponding draw and for which public funds he was accountable, having received and sold a total of 171 booklets of sweepstakes tickets for the February 25, 1951 draw, valued at P5,377.95, accounted, for and turned over only P1,417.00, thereby leaving a balance of P3,960.95 unaccounted for, which the said accused, notwithstanding repeated demands made upon him to account for the same, did then and there willfully, unlawfully, feloniously and fraudulently, with grave abuse of confidence, misappropriate, embezzle, misapply and convert the said amount of P3,960.95 to his own personal use and benefit, to the damage and prejudice of the aforesaid Philippine Charity Sweepstakes Office in the said amount of P3,960.95, Philippine currency. (Crim. case No. 24988.)

Upon arraignment, the defendant, assisted by counsel, entered plea of not guilty. After trial, the Court found him guilty 8 charged and sentenced to suffer—

* * * the indeterminate penalty of one (1) year, eight (8) months and one (1) day of prison correccional as the minimum to four (4) years, two (2) months and one (1) day of prison correccional, as the maximum; to indemnify the offended party in the amount of P2,445.25, with subsidiary imprisonment in case of insolvency at the rate of P2.50 a day, provided said subsidiary imprisonment does not exceed one-third of the principal penalty imposed and shall in no case be more than one year, and to pay the costs.

The defendant appeals and assigns two errors which he contends the trial court committed, to wit:

- The Court erred in persisting to take cognizance of the case in spite of the defendant's contention that he had no jurisdiction over the case.
- The Court erred in not receiving evidence for the accused, and in not providing him with counsel de oficio. The trial court found that—

* * * The accused was a travelling sales agent of the Philippine Charity Sweepstakes Office from April 26, 1950 to July 25, 1951, as evidenced by Exhibit A. As such, he was bonded and was authorized to sell sweepstakes tickets, with the obligation of turning over the proceeds of the sale to the Treasurer of the Philippine Charity Sweepstakes Office, Manila, every fifteen days until the whole value of the same is fully paid, full payment to be made in all cases not later than one week before the draw. On December 19, 1950 and

January 22, 1951, he received a total of 171 booklets of sweepstakes tickets for the February 25, 1951 draw, valued at P5,377.95, as evidenced by consignment invoices Exhibits D, D-1 and D-2. Not having fully paid the amount just mentioned when it became due, and as he could not be located, his accounts were examined or audited, and as of June 1, 1951, it appears that his total accountability was P5,377.95, and his total remittances only P1,417.00, thereby leaving a balance due from him in the amount of P3,960.95, as shown by Exhibits C and C-1. Thereafter, other payments totalling P1,515.70 were made, reducing the balance to P2,445.25, which has never been paid by the accused, as evidenced by the statement of account Exhibit B. Up to the present time, he has failed to account for the said balance of P2,445.25, which he has misappropriated and converted to his personal use and benefit, to the damage and prejudice of the Philippine Charity Sweepstakes Office.

The appellant presses the question of jurisdiction raised in a motion to quash which was denied by the trial court. He insists that as the malversation was committed while he was a travelling sales agent in Cagayan, as charged in the information, and that as it is not charged that the fund or part hereof was malversed in Manila, the Court of First Instance if Manila has no jurisdiction over the case. True it is alleged in the information that he had his "headquarters at Tuguegarao, Cagayan," but it is also alleged that he was a Travelling Sales Agent of the Philippine Charity Sweepstakes office, in said City," (Manila) * * * "charged with selling sweepstakes tickets entrusted to him for sale in his district, with the obligation of turning over the proceeds of the sale of said tickets to the Treasurer of the Philippine Charity Sweepstakes Office in Manila," * * *, and that he "willfully, unlawfully, feloniously and fraudulently, with grave abuse of confidence," misappropriated, embezzled, misapplied and converted the amount of P3,960.95, the unaccounted and unpaid balance of the proceeds of the sale of the tickets to his urn personal use and benefit, to the damage and prejudice if the Philippine Charity Sweepstakes office. These allegations are sufficient to confer jurisdiction upon the Court of First Instance of Manila to the exclusion of the concurrent jurisdiction of the Court of First Instance of Cagayan. The findings of the trial court to the effect that the appellant "was bonded and was authorized to sell sweepstakes tickets, with the obligation of turning over the proceeds of the sale to the Treasurer of the Philippine Charity Sweepstakes Office, Manila;" and that the appellant failed to account for and pay part of the proceeds of the sale of tickets made by him, bear out the charge preferred against him in the information.

The appellant claims that the trial court did not provide him with! a counsel de oficio and did not hear the evidence in his defense. The record shows that at the arraignment and trial he was aided and represented by counsel of his choice; that after the prosecution had rested its case counsel moved that the case be dismissed; that on 20 April 1954, the Court denied the notion and set the resumption of the trial of the case on the first available date to enable the defendant to present his evidence; that the Court set the resumption of the trial on 17 May 1954; that on 3 May 1954 counsel moved for the continuance of the trial upon the ground that "on said date attorneys will be engaged in the trial of Thomas L. Ghent, et al., vs. Gaudencio S. Mañalac, et al., Civil Case No. 465, Court of First Instance of Lanao, which case has been previously set;" that on 17 May 1954, the date set for the resumption of the trial, counsel filed a motion praying for postponement oh the ground that the appellant was "sick of influenza and cannot travel from Vigan, where he resides, to Manila, to attend the trial of the * * * case," which was granted; that on 3 June 1954 counsel moved for reconsideration of the order denying the motion to dismiss; that on 17 June 1954 the Court directed that the motion to dismiss on the ground of lack of jurisdiction be heard again on 26 June 1954, and that the prosecuting attorney be furnished with a copy of the order and instructed to appear before it on the date set for the hearing of the motion for reconsideration; that on 15 July 1954 the Court, then presided over by Judge E. Soriano, directed the prosecuting attorney to answer the appellant's motion for reconsideration dated 3 June 1954; that on 23 July 1954 the prosecuting attorney objected to the motion for reconsideration; that on 28 July 1954 the Court denied the motion for reconsideration and set the trial of the case for 18 August 1954; that on the last mentioned late, counsel appeared and manifested that the order of 28 July 1954 setting the case for trial on 18 August 1954 was not received by him because it was sent to a wrong

address and that he was not ready to present evidence for the appellant; that the Court set the resumption of the trial of the case "for the last time to October 15, 1954, with the understanding that if the accused does not present his evidence on said date, he will be deemed to have waived his right to present any evidence and this case will be considered submitted for decision upon the evidence presented by the prosecution;" that on 14 October 1954 counsel again filed a motion praying that the trial of the case be postponed to another date most convenient to the Court, on the ground that the appellant was suffering from pulmonary tuberculosis and would not be able to attend the trial of the case, and that counsel would also be unable to attend the trial of the case as he had to attend the funeral of his grandmother in Asingan, Pangasinan; that 15 October 1954, the date set for the resumption of the trial, the Court denied the motion for postponement and ordered the appellant arrested, the bailbond forfeited, and the bondsmen to produce the body of the appellant within thirty days from notice; that on 27 October 1954 counsel filed a motion praying for reconsideration of the last mentioned order and on 30 October 1954 a supplementary motion praying "that case be set definitely for hearing next January, 1955; and pledge (pledged) that no further petition for postponement will be filed under any ground, it being his intention to plead guilty;" that on 3 November 1954 the Court granted the motion for reconsideration, set aside its order of arrest and confiscation of the bond of the accused, and set the case for trial on 11 January 1955; that on the last date set for the trial of the case, 11 January 1955, the Court issued an order, is follows:

Upon verbal motion of the accused, temporarily assisted, by attorney Jose" C. Zulueta, the trial of this case is postponed—for the last time—to March 3, 1955 at 8:30 o'clock a.m., with the warning that if the accused does not appear with counsel for said trial he shall be considered as having waived his right to present his evidence, and this case will be deemed submitted for decision on the evidence presented by the prosecution;

that on 3 March 1955, the appellant again appeared without counsel, whereupon the Court ordered that the case was "deemed submitted for decision upon the evidence adduced by the Prosecution." On 9 July 1955, the Court rendered judgment finding the appellant guilty as charged and sentenced him to suffer the penalty set out at the beginning of this opinion.

As the appellant was represented by counsel of his choice at the arraignment, trial and in the incidental motions to dismiss and to postpone the resumption of the trial of the case, the trial court was not in duty bound to appoint a counsel de oficio to assist him in his defense. His failure to appear with counsel of his choice at the hearing of the case, notwithstanding repeated postponements and warnings that failure to so appear would be deemed a waiver on the part of the appellant to present his evidence and the case would be deemed submitted for decision upon the evidence presented by the prosecution, was sufficient legal justification for the trial court to proceed and render judgment upon the evidence before it. Taking into consideration all the steps taken by the trial court to safeguard the rights of the appellant, the latter cannot pretend that he was deprived of his right to be assisted by counsel and to present evidence in his behalf. Moreover, the repeated failure of the appellant to appear with counsel at the resumptions of the trial of the case may be taken as a deliberate attempt on his part to delay the proceedings.

The crime committed is malversation defined and punished in article 217, No. 2, of the Revised Penal Code, with prision correccional in its maximum period to prision mayor in its minimum period. As there are no modifying circumstances, the medium period should be imposed upon the appellant, which is from 5 years, 5 months and 11 days of prision correccional to 6 years, 8 months and 20 days of prision mayor, and the additional penalty of perpetual special disqualification and a fine ranging from one-half to the total sum of the funds embezzled. Applying the Indeterminate Sentence Law, he should be sentenced to suffer not less than 6 months and 1 day and not more than 4 years and 2 months of prision correccional, as the minimum, and not less than 5 years, months and 11 days of prision correccional and not more than 6 years, 8 months and 20 days of prision mayor, as the maximum. The minimum penalty imposed is within the range of the minimum penalty that may be imposed, but the maximum penalty is below the range as above pointed out.

With the additional penalty of a fine of one-half of the sum embezzled and of perpetual special disqualification and a modification of the maximum penalty which must be 5 years, 5 months and 11 days of prision correccional, the accessories of the law, the judgment appealed from is affirmed, with costs against the appellant.

Paras, C.J., Bengzon, Montemayor, Reyes, J.B.L., Endencia, and Felix, 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.