

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CASIMIRO E. VELAZQUEZ, DEFENDANT AND APPELLANT.

G.R. No. 10935. November 04, 1915

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of Rizal convicting the accused of the malversation of public funds under an information charging that, on or about the 4th day of January, 1915, the accused, being "an employee of the provincial government of Rizal, whose duty it was to collect from persons registering land in that province certain fees therefor and turn them over to the proper official of the province, and having in his hands funds and property of said province, obtained in that manner, converted the same to his own use to the prejudice and damage of the province.

It appears from the testimony of the witnesses and the exhibits introduced in the case that the accused stole the money of the province by creating a difference between the amounts represented in the receipts delivered to the persons from whom he collected fees and those represented by the duplicate receipts which he retained in his hands from which the amount of money for which he was responsible was determined. The evidence discloses that for some considerable time he changed the duplicate receipts in such manner as to make it appear that he received less money than that actually received as shown by the receipts issued and delivered to the persons who paid the fees. This system was followed until the difference between the amounts shown in the original and the duplicate receipts was something like P597. This difference the accused retained and converted to his own use.

We think it is clear that the accused committed the crime charged. Much stress is laid on the contention of the appellant that he was not such an officer of the province as would make him liable to be convicted of the crime of malversation of public funds. We cannot agree with that. Section 1 of Act 1740 clearly covers the case. It provides:

"Any bonded officer or employee of the Insular Government, or of any provincial or municipal government * * * and any other person who, having charge, by reason of his office or employment, of Insular, provincial, or municipal funds or property, * * * fails or refuses to account for the same, or makes personal use of such funds or property, or of any part thereof, or abstracts or misappropriates the same, or any part thereof, * * * shall, upon conviction, be punished etc. * * *."

That the accused was a mere clerk is of no consequence. The vital fact is that he was an employee of the provincial government of Rizal who received in the course of that employment certain moneys belonging to that province for which he was bound to account, and that, instead of accounting therefor, he feloniously converted the same to his own Use. The name of the office occupied by the accused is of little consequence; the nature of the duties which he performed,—the fact that, as part of his duties, he received Public money for which he was bound to account, and that he failed to account for it,—is the factor which determines whether or not the case falls within the provisions of Act No. 1740.

The judgment of conviction is affirmed, with costs against the appellant, with the modification that, in addition to the penalty imposed by the trial court, the accused shall indemnify the Province of Rizal in the sum of P597. So ordered.

Arellano, C. J., Torres, Johnson, Carson, and Araullo, JJ., concur.

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