

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CIRIACO R. KALINGO, DEFENDANT AND APPELLANT.

G.R. No. 11504. February 02, 1917

Ponente: ARAULLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11504/>

ARAULLO, J.:

The defendant was charged with the crime of malversation of public funds, under the following complaint filed in the Court of First Instance of the Province of Samar by the provincial fiscal of said province, dated November 16, 1915, and amended on the 24th of the same month:

"The undersigned fiscal, amending his previous complaint, charges Ciriaco R. Kalingo with the crime of malversation of public funds, committed as follows:

"That in or about and within the period between October 15, 1915, and November 8, 1915, the said accused Ciriaco R. Kalingo was duly appointed postmaster in the municipality of Calbayog, Province of Samar, Philippine Islands; and during said period and prior thereto was discharging the duties of his office in said municipality; that as such postmaster he was bonded officer of the Insular Government, and, by reason of his office, was charged with the custody of public effects and moneys, funds on deposit, and other property which the law requires to be kept by said officer; and that, with abuse of his office, said accused did then and there, willfully and unlawfully abstract, misappropriate, wrongfully apply to his own use, refuse and fail to make account of, the sum of P3,089.24 that was under his custody and responsibility and belonged to the Insular public funds.

"Acts committed within the jurisdiction of this court and in violation of law."

Upon arraignment the defendant plead not guilty, and after trial and the introduction of evidence by both the prosecution and the defense, said court on December 2, 1915, rendered judgment finding the defendant guilty of the crime charged and sentenced him to the penalty of eight years' imprisonment, to pay a fine of P3,089.24, equivalent to the sum misappropriated and unrecovered, and to pay the costs of the trial. From this judgment the defendant appealed, and", in his defense in this instance, alleged in effect that the lower court erred in giving greater weight to the evidence introduced by the prosecution than to that presented by the defense, and in not acquitting the defendant.

The following facts were proven beyond all doubt at the trial; the lower court so held in the judgment appealed from, and they were not denied by the defense:

- During the period between August 24 and November 8, 1915, the defendant held the position of postmaster of the post-office established by the Government of the Philippine Islands in the municipality of Calbayog, Province of Samar, having been duly appointed, bonded, and qualified for the purpose; and, as such postmaster and by reason of said employment, he was charged by law with moneys and property belonging to said Government, and with funds on deposit.

- On November 8, 1915, L. A. Walton, post-office inspector of the Department of Posts, made an examination and audit of the accounts and funds in the defendant's possession and charge, and discovered that there was a shortage in the sum of P3,089.24; and when a demand was made upon the defendant to present or deliver said sum, he failed so to do.

The defendant's defense consisted in that said sum must have been stolen by somebody during and on the occasion of a fire that occurred early in the morning of November 4, 1915, in the pueblo of Calbayog, and not far from the house occupied by the defendant, in the lower part of which the post-office was installed, for this house was only about 120 "brazas" (fathoms) from that in which the fire started.

The defendant, explaining what occurred at the time referred to, and how the said sum could have been stolen, said that, in view of the danger of the fire spreading to the building in which the post-office was located, he left his house and went to the post-office, opened its door and a small window which was behind the iron safe to the height of the waist; that he removed from this safe the coin, paper money and securities kept therein and placed them in a small bag, which he neither closed nor tied, and, after putting it on the floor between the door and the pouch rack at about two meters and a half from said door,—all of which acts he performed while he was entirely alone in the room,—he again locked the door with the padlock, closed the window and went upstairs, where he was living with his family; that after safeguarding his furniture, he went out to the street a moment to inform himself of the condition of the fire, which he found then to be under control, and returned to the office, the door and small window of which he found closed; that he then noticed the disappearance of the bag in which the money, funds and securities had been placed; and that he reported the matter, by telegraph, to the postmaster of the Manila post-office and, on the following day, a like report was made to the Constabulary officer of that locality (Calbayog).

It is very evident that but slight importance can be attached to such a defense, because, in the first place, the defendant had no need to remove from the iron safe in the office the money and securities it contained, and much less so at the time he did, thereby exposing these valuables to be stolen by such persons as might take advantage of the alarm and tumult occasioned by the fire, and that removal was all the more unnecessary in view of the conditions of the iron safe, which could not have been unknown to the defendant and were such that, even if the post-office had been burned down, the contents of the safe would not have been injured at all. What was prudent and safe was to leave said funds and securities in the safe, keeping the safe closed, as it should have been, and in the place where it was, or else to take it out of the building, which the defendant could easily have done, in view of its size and its capability of such removal.

In the second place, it is difficult to understand why the defendant left the bag that contained the coin, paper money, and securities, and which he had removed from the safe of the office on the floor and near the door when he left the office to save his own personal property in the upper part of the building and to inform himself of the progress of the fire, instead of carrying the bag with him in order to have it in his possession as safe as was required by the circumstances that surrounded him. It is still less comprehensible why, before removing the money from the safe, he should have opened the small window behind it, and the door of the office.

In the third place, neither can it be conceived how the bag with its contents could have been removed, and precisely only the bag and its contents, if before he left the office to go to the upper part of the building, the defendant had closed the small window which he had opened a few moments before upon his entering the office, and locked its door with a padlock. That the bag should have thus disappeared without any trace or sign having been left in the premises of the entry of any person who might have taken away the property, is a mystery which the defendant did not explain.

It is true that in his testimony it appears that the defendant suspected two employees of his office, named Pedro Alabado and Isabelo Flores, for, in this connection, he stated that they were in the vicinity of the office at the time of the fire. This statement, however, was contradicted by both the suspected parties, and, in addition to there being no proof whatever or any circumstantial evidence of their having taken the bag, the defendant's wife, mentioned by him as the person having knowledge of the presence of said two employees in the vicinity of the office at the time of the fire, was not presented by him to testify in his behalf; nor is the defendant's imputation against these men confirmed in any manner. For all of these reasons, this defense is not only unavailing, but rather tends to produce a conviction of mind contrary to that intended by the defendant.

On the other hand, from the evidence it appears that the defendant was fond of the gambling game of jueteng and had given himself up to it since the month of October previous to the discovery of the shortage, he periodically making wagers of money therein, as proven by the fact of the discovery, among his personal effects, of the copybook Exhibit K, and the slips of paper contained in Exhibit L, introduced by the prosecution; that since the month of October he failed duly to pay the amounts of several postal money orders which should then have been paid by the post-office under his charge, he having paid, some time afterwards, only one of said orders out of a part of the money that was delivered to him by one of the drawers in payment of another order to be issued by the same post-office; that, while it was the defendant's duty to remit to the central post-office, by each mail leaving Calbayog for Manila, the sums he might have in his possession, he failed so to do, from the middle of October until the date of the discovery of the shortage, notwithstanding that during this period of time there departed several mails for Manila; and, finally, that although he was a married man and his salary was only P120 per month, he entertained certain relations of a kind that put his morality into doubt with another woman in the same province until her departure for this city a short time prior to the date of the discovery of the shortage of funds, and drew a postal money order in favor of this woman for 50 dollars, instead of the 50 pesos that was the amount delivered to him by the remitter. All of these facts, in connection with his having given no account or satisfactory explanation of the said shortage of funds in the respectable sum of P3,089.24, constitute complete and conclusive proof that the defendant misappropriated, diverted, and made improper use of said funds, to the prejudice of the Government of the Philippine Islands. The lower court, therefore, did not err in so holding and in imposing upon him, within the discretionary bounds allowed by law, the proper penalty prescribed in section 1 of Act No. 1740, which is the same penalty as that provided for in section 2662 of the Administrative Code, that is, Act No. 2657, approved by the Philippine Legislature on February 24, 1916. To this penalty must be added that of perpetual disqualification of the defendant from holding any public office or employment of any kind in the Philippine Islands, in conformity with the provisions, respectively, of section 3 and second paragraph of said section 2662 of the two Acts above cited.

For the foregoing reasons, with the understanding that the sentence appealed from shall be increased by the said penalty of disqualification in the manner aforesaid, we affirm said sentence, with the costs of this instance against the appellant. So ordered.

Torres, Carson, Moreland, and Trent, JJ., concur.

Judgment affirmed; penalty of disqualification added.

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.