

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FAUSTINO GARALDE, DEFENDANT AND APPELLANT.

G.R. No. 27040. September 29, 1927

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

The information filed in this case is for estafa, with falsification of commercial documents, and reads as follows:

"That on or about one of the last days of the month of January, 1926, in the municipality of Bangui, Province of Ilocos Norte, Philippine Islands, the said accused Faustino Garalde being then assistant postmaster in charge of the post-office of said municipality, and taking advantage of his position as such, conspiring and scheming between themselves, working together and confederating and mutually helping each other, voluntarily, unlawfully and criminally, with intent to gain and to damage and defraud Cosme Valdes, appropriated postal money orders Nos. 99014 and 99015 in the sum of \$100 and \$60 respectively, in favor of said Cosme Valdes, sent by registered mail by Anselmo Tangunan from Koloa, Hawaii, which the said accused Faustino Garalde had received by reason of his office as assistant postmaster; the aforementioned accused having succeeded in collecting for their own use and benefit the amount of the said postal money orders by means of falsification of the same, consisting in causing it to appear that persons participated in an act who did not do so, and in having counterfeited or imitated the signature of the said Cosme Valdes, to his damage in the total sum of \$160 U. S. currency, equivalent to P320, that is 1,600 pesetas, Philippine currency."

"Contrary to law."

After trial the Court of First Instance of Ilocos Norte found the accused Faustino Garalde guilty as principal of estafa with falsification of official documents, and the accused Candido Aguillon as accomplice, imposing upon the former ten years and one day prision mayor, perpetual disqualification for holding public office, the accessories of the law and a fine of two hundred fifty pesetas; and upon the latter, two years, four months and one day prision correccional, with the accessories of the law, and both to indemnify the post-office at Bacarra, Ilocos Norte, in the sum of P120 and the post-office at Bauang, La Union in the sum of P200, with subsidiary imprisonment in case of insolvency with respect to the accused Aguillon, plus the costs, and ordering the confiscation of the sum of P75.51 to be delivered to the post-office at Bauang, La Union, and to be applied on the P200 which the said accused were ordered to pay to said office.

It is the appeal of Faustino Garalde that concerns us in this instance, which he bases on two assignments of error that refer to the sufficiency of the evidence of the charge.

We have reviewed and studied all the evidence presented and we find it sufficiently proven that the appellant, in conspiracy with his coaccused, and assisted by the latter, and taking advantage of his office as assistant postmaster of the municipality of Bangui, Ilocos Norte, through the falsification of public documents, appropriated postal money orders Nos. 99014 and 99015 in the sum of \$100 and \$60, respectively, which money orders had been received by him by reason of said office of assistant postmaster.

The guilt of the accused is sufficiently established beyond a reasonable doubt.

Taking into consideration that the amounts abstracted and appropriated by the accused were at that time Government funds, according to the definition of section 658 of the Administrative Code, we hold that the appellant committed malversation besides the falsification of public documents, both crimes being sufficiently alleged, described and proven herein, the sufficiency and legality of which is not in question.

Therefore, modifying the judgment appealed from, the appellant is found guilty of the crimes of malversation of Government funds and falsification of public documents, and for the falsification of public documents the penalty of eight years and one day prison mayor is imposed upon him, with the accessories of the law, perpetual disqualification from holding public office, a fine of 250 pesetas and to indemnify the Government in the sum of P244.49; and for the crime of malversation he is sentenced to two years imprisonment, perpetual disqualification for holding public office, a fine of P320 with subsidiary imprisonment in case of insolvency, one-half of the costs of the first instance and the costs in the present appeal, with the understanding that the personal penalties hereby imposed shall not be served simultaneously. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Johns, and Villa-Real, JJ., concur.

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