

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DOROTEO GALIT QUINTO, DEFENDANT AND APPELLANT.

G.R. No. 4108. February 12, 1908

Ponente: CARSON, J.

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CARSON, J.:

The appellant, Doroteo Galit Quinto, was convicted, of the crime of misappropriation of public funds, as denned and penalized in paragraph 2, article 390, of the Penal Code, upon an information charging the commission of the offense as follows:

"The said Doroteo Galit Quinto on or before the 11th day of July, 1906, in the municipality of San Pablo, Province of La Laguna, Philippine Islands, being at that time municipal treasurer and deputy of the provincial treasurer, in the said municipality of San Pablo, having in his charge, as such official, public funds, abstracted from the said municipal funds the sum of 1,000 pesos. This contrary to law."

On the evening of the 10th day of July, 1906, the treasurer of the Province of La Laguna arrived in the town of San Pablo, for the purpose of relieving the accused from his office as municipal treasurer and substituting in his place one Marcos Paulino. Late that evening an inventory was made of the funds, supplies, stamps, etc., in the hands of the accused as municipal treasurer and the following provisional statements of the result of this inventory was prepared by the accused and signed by himself and the incoming treasurer:

Statement of amounts.

Silver

1,000.00

Silver

1,000.00

Silver

289.18

Silver

47.50

Silver

258.00

Paper

462.00

Paper	
1,400.00	
Paper	
520.00	
Paper	
240.00	
Paper	
1,402.35	
Paper	
803.68	
Deposit receipt (general)	
5,307.77	
Deposit receipt (school)	
9,497.92	
Check	
40.30	
Exchange for 44 pesos	
33.84	
Stamps (voucher not prepared)	
10.22	
Stamps (voucher prepared)	
5.62	
Memorandum receipt	
6.60	
Copper coins	
2.30	
.....	
Total	
22,327.26	
July collection	

1,183.22

Total

23,510.48

SAN PAULO, July 10, 1906

(JULY 1,1906)

Received by:

MARCOS PAULINO,

Incoming Treasurer,

Delivered by:

DOROTEO QUINTO

Outgoing Treasurer

Two of those items, one of P1,402.33 and the other of P803.68 were at the time of this count in the form of memorandum receipts signed by the provincial treasurer, and were treated as cash, it being understood that the provincial treasurer would take up these receipts before the outgoing municipal treasurer turned over the funds to his successor.

The actual transfer of the office and funds did not take place until the following morning, and the prosecution alleges that in the meantime the provincial treasurer paid over to the accused P2,206.01, being the total amount represented by these memorandum receipts, and the further sum of P2,430.13, being a balance found due the municipal treasury from the provincial treasury, as its share of certain municipal and school funds collected by the provincial treasurer. The provincial treasurer left San Pablo on his way to the hospital in Manila before the funds were finally turned over, and immediately upon his departure a recount was made of the funds, stamps, and deposit receipts, and a statement thereof, including a statement showing the amount due upon the face of the books of the outgoing treasurer, was prepared and signed by both these officials in the following form:

"In the count verified on this 11th day of July, 1906, a few moments after the departure of the provincial treasurer, the following amounts result:

Cash

2,602.39

Notes

6,252.00

Check, \$20.15

40.30

Memorandum stamps

10.22

Memorandum stamps
5.62
Chits
6.60
Office supplies
12.61
School deposit
9,497.92
General deposit
5,307.77
Copper coins
73
Total
23,736.16

Collections from 1st to 10th July, 1906
1,183.22

Total
24,919.38

=====

As per school cashbook
14,527.65
As per general book
10,208.51
July collections
1,183.22

25,919.38

Balance

Total in cash

P24,919.38

Total as per book

25,919.38

Difference

1,000.00

"The undersigned, as incoming and outgoing treasurers, declare that according to the liquidations verified on this day, on account of the delivery, the amounts above stated are correct.

"In testimony whereof we sign these presents before the witnesses Antonio Torres and Pnmian Magpanfay.

"Dated San Pablo, 11th day of July, 1900. Doroteo G. Quinto, outgoing treasurer. Marcos Paulino, incoming treasurer. Antonio Torres, witness. Pamian Magpantay, witness.

If it be true, as alleged by the prosecution, that prior to the preparation of the second statement the provincial treasurer paid the accused the sum of P2,206.01, on account of the memorandum receipts, and the sum of P2,430.13, on account of the balance due from the provincial treasury to the municipal treasury, a comparison of those statements leaves no room for doubt that there was a shortage of P1,000 in the account of the accused at the time when the second statement was prepared, and that the shortage resulted from the abstraction of P1,000 from the funds in the hands of the accused on the night of the 10th or the morning of the 11th of July, 1906

The accused admits having received the sum of P2,300, but denies the payment of the balance due; his statements are not satisfactory, but the burden of proof rests on the prosecution to establish the payment, as alleged, beyond a reasonable doubt. The only witnesses as to this point were the provincial treasurer and his deputy. The provincial treasurer was sick at the time when the alleged payment was made, and it is not impossible that under the circumstances a mistake might have been made; certain it is that he was in haste to get away, and he does not appear to have a very distinct recollection of the exact circumstances surrounding the payment. While he was quite positive as to the payment when he was on the witness stand, he does not seem to have been so positive when he first learned of the shortage some days after the event.

Indeed, it would appear from his letters and telegrams that he was then under the impression that there might have been a mistake, and that it was not until he had an opportunity to check up his books, and satisfy himself that they showed no unaccounted for surplus in his hands, that he finally convinced himself that there was no mistake in the transactions arising out of the settlement of the accounts of the accused, and that he had in fact paid the amount

indicated. His deputy swore that he was present when the balance of P2,430.13 was paid the accused, just before the provincial treasurer left for Manila. He stated that this amount was paid in P10 notes, and that he himself counted the P430 which, together with two bundles of notes, each amounting to P1,000, were placed by him on the table where the rest of the funds of the accused were spread out preparatory to their delivery to the incoming treasurer. A careful examination of his testimony, however, shows that while he was quite clear and positive as to the delivery of the P430.13 which he himself counted and delivered, he was not so certain and positive as to whether one, two, or three bundles of notes, each containing P1,000, were placed upon the table at the same time. This money does not appear to have been handed to the accused himself, and it would appear from the testimony of the deputy that the accused was not given an opportunity to count it for himself, before the departure of the provincial treasurer, and that in truth he never had an opportunity to verify the amount paid him, as at the time of the alleged payment it was placed with the other funds upon the table, so that thereafter it was impossible to determine just what was the exact amount paid over at that time.

Under all the circumstances we think that the fact of payment of these funds is not established with that degree of certainty which would justify us in sustaining the judgment of conviction of the accused; the said judgment of conviction is therefore reversed with the costs of both instances de oficio, and the accused is acquitted of the crime with which he h charged, and if in detention, he will be set at liberty forthwith, or if at liberty under bail, his bail bond is hereby exonerated. So ordered.

Arellano, C, J., Torres, Mapa, Johnson, Willard. and Tracey, JJ., concur.

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