

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. IRINEO R. CASTRO, DEFENDANT AND APPELLANT.*G.R. No. 41747. August 30, 1935*

Ponente: AVANCEÑA, C.J.

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The appellant was sentenced by the Court of First Instance of Cotabato for the crime of malversation of public funds, in accordance with article 217, subsection 1, of the Revised Penal Code, to the penalty of from six months of arresto mayor, as minimum, to two years, four months and " one day of prision correccional, as maximum, to perpetual special disqualification to hold any public office, and to pay a fine of P146, with subsidiary imprisonment, in case of insolvency, at the rate of P2.50 a day, which shall not exceed one-third of the principal penalty, with costs.

About the year 1931, the appellant was a telegraph operator in the post-office of Cotabato and, in addition to his duties, he attended to articles for delivery to their addressees upon payment of their value (C. O. D.). According to rules and regulations, these articles mailed C. O. D. should be delivered to their respective addressees only upon presentation to the postmaster of a money order in favor of the sender thereof for the value of the articles. The addressee should purchase this money order and present it to the person charged with delivering said articles. The appellant was a bonded employee.

In said year, the appellant received seven C. O. D. packages, Nos. 22692, 12231, 6686, 6152, 15977, 16611 and 19538. The appellant received package No. 22692, valued at ₱86.86, in June, 1931, having delivered the articles to the addressee from whom he received the value thereof. As to package No. 12231, for ₱21.48, the appellant received the value thereof from the addressee on March 31, 1931, but he issued the money order for said sum only on April 9, 1931. As to package No. 6686, for ₱8.58, the appellant received the value thereof on February 24, 1931, and issued the money order for this sum only on March 10, 1931. With respect to package No. 6152, for ₱6.14, the appellant received the value thereof on February 28, 1931, and issued the money order for said sum only on March 12, 1931. As regards package No. 15977, for ₱7.72, the value thereof was received by the appellant on April 20, 1931, and he issued the corresponding money order on May 4th of said year. With regard to package No. 16611, for ₱12.96, the appellant received the value thereof on April 22, 1931, and made the money order for said sum on May 4th of the same year. And as to package No. 19538, for ₱51.28, the appellant received the value thereof on May 28, 1931, and issued the money order for said sum only on June 3d of said year.

The appellant admits that after receiving ₱86.86, representing the value of the articles of package No. 22692, he appropriated ₱37.06 thereof and did not refund it until the discovery of this irregularity. As to the other packages, the appellant also admits that after having received the value thereof from the addressees, he converted it to his personal use during the period from his receipt thereof to the date on which he issued the money order, this period ranging from twelve to fourteen days. According to this admission of the appellant, he converted to his own use the total amount of ₱146, representing the value of said packages delivered to him by the addressees thereof.

The appellant alleges in his defense that these sums were delivered to him by the addressees so that he might buy the corresponding money orders and that as he was not in charge of money orders, he received them not in his official capacity but as a mere agent requested to purchase said money orders. The appellant's contention is that these sums, upon coming to his possession in such capacity, did not yet constitute public funds. This contention is absolutely unfounded.

According to the evidence, the appellant, although not specifically charged with the issuance of money orders, was also authorized to prepare them and in fact he admits having issued them on certain occasions when the person specially charged with said task was busy.

But even leaving aside this consideration, the fact that the appellant was in charge of dispatching said C. O. D. packages places him under the same responsibility. The appellant admits having received the value of the articles from the addressees thereof with the request to purchase the corresponding money orders, whereupon he delivered the articles to them. In this manner, he received these sums from the addressees in lieu of the money orders which they should buy. Had the same addressees purchased the money orders in question and delivered them to the appellant, and had the latter misappropriated their value, there would be no doubt that the amount of these money orders, upon misappropriation by him, had the character of public funds. Consequently, the appellant having received the value of the packages in lieu of the money orders, his liability is exactly the same.

For the foregoing considerations, the judgment appealed from is affirmed, with costs to the appellant. So ordered.

Abad Santos, Hull, Vickers, and Recto, JJ., concur.

Judgment affirmed.

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