

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SIMEON CAPULE, DEFENDANT AND APPELLANT.

G.R. No. 44892. May 31, 1938

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal from a judgment of the Court of First Instance of Manila finding the defendant-appellant guilty of the violation of section 1628-E of the Revised Administrative Code and sentencing him to pay a fine of one hundred pesos, with subsidiary imprisonment in case of insolvency, and to pay the costs.

Only questions of law are raised in this appeal. The appellant does not deny that he is the president and manager of the Orient Protective Assurance Association, a mutual benefit, relief and benevolent association, organized and incorporated under the laws of the Philippines and that, between November, 1934 and May 1935, he diverted or caused to be diverted from the travelers' accident fund of the association a certain sum, for purposes other than the payment of benefits to members of the association. It is admitted, that part of the travelers' accident fund had been used to cover expenses for equipment, furniture, printing and other expenses. It is asserted, however, that:

"I. The lower court erred in declaring that the accused as president of the Orient Protective Assurance Association, is the one responsible for the violation of section 1628-E of the Revised Administrative Code in relation to section 2743 of the same as amended by Act No. 3612.

"II. The lower court erred in declaring that the mere fact that the travelers' accident fund was borrowed to be used temporarily for buying furniture and office equipment for the association and then paid back is a violation of section 1628-E of the Revised Administrative Code as amended by Act No. 3612.

"III. The lower court erred in sentencing the accused to pay a fine of one hundred pesos (P100), with subsidiary imprisonment in case of insolvency."

In connection with the first "assignment of error, it is contended that the treasurer is the person responsible for the funds of the association and that, therefore, he and not the president is the one responsible for the violation of the law. Section 2743 of the Revised Administrative Code makes the person in charge of the association responsible for the violation of the applicable provisions of law, and, according to the by-laws of the Orient Protective Assurance Association, it is the president and not the treasurer, who is in charge of the association. Here, according to the finding of the trial court, the diversion of the benefit fund was made "as a result of the order" of the defendant-appellant.

The second assignment of error is likewise without merit. Section 1628-E of the Revised Administrative Code provides as follows:

"Sec. 1628—E. Death benefit and other relief funds kept separate.—The death benefit and other relief funds, including the net accretions thereof, and the moneys collected for relief purposes of any form, of any society or association shall be available only for the purpose of paying the benefit expressly authorized to be paid out of said funds and the expenses directly connected with the operation thereof."

The travelers' accident fund of the Orient Protective Assurance Association is a relief fund within the meaning of section 1628-E just quoted. The diversion of part of said fund made in the case at bar was obviously not "for the purpose of paying the benefit expressly authorized." It is insisted, however, that such diversion is authorized by the closing words of section 1628-E which refer to "expenses directly connected with the operation thereof." We are satisfied that the intention of the Legislature is to keep intact such benefit funds as may be created and to make such funds, including the net accretions thereof, available only, as the law states, for the payment of benefits expressly authorized and such expenses as may be directly involved in making such payments, or incurred in connection with the operation of the funds, not of the association. We think this intention of the lawmaker discoverable from an examination of the other sections of the Revised Administrative Code which, together with section 1628-E, were inserted in said Code for the first time in 1929 by Act No. 3612. So earnest was the desire of the legislature to protect benefit funds that in section 1628-F it was provided that, "No money or other benefit, charity or relief, or aid to be paid, provided or rendered, by any such society or association shall be liable to attachment, garnishment or other process, or be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment." Section 1628-G prohibits the investment of such portion of the benefit and other relief funds as may be "required to meet pending claims and other obligations of said funds." A list of permissible investments of the balance is made but it is provided that said balance "may be invested only in any of the ways provided herein and in no other manner." Notice should also be taken of section 1628-D. It is there provided that "Every provision of the statutes of any mutual benefit, relief, and benevolent society or association requiring the payment of dues or assessments by the members, in whatever form, shall distinctly state the purpose of the same, and the portion thereof which may be used for expenses."

The offense committed is punishable, under the provisions of section 2743 of the Revised Administrative Code, by a fine of not more than five hundred pesos, or imprisonment of not more than six months, or both. The fine of one hundred pesos, imposed by the court below, is within the prescribed range. The judgment appealed from is affirmed, with costs against the appellant. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

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