

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CARLOS H. ACEBEDO, DEFENDANT AND APPELLANT.*G.R. No. 5799. February 23, 1911*

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5799/>**MORELAND, J.:**

This is an appeal from a judgment of the Court of First Instance of the Province of Leyte, Hon. Mariano Cui presiding, convicting the appellant of the crime of malversation of public funds and sentencing him to one year of imprisonment, to the payment of a fine of P38, to return to the justice of the peace of Palo, Leyte, the sum of P2.30, with subsidiary imprisonment in case of insolvency, to the disqualification provided in section 3 of Act No. 1740, and to pay the costs of the trial.

L. W. Berry, auditor of the district, testified that on the 10th of April, 1909, he was in Palo, Leyte, for the purpose of investigating certain irregularities alleged to have been committed by the municipal president of said pueblo in relation to certain fines and costs imposed by the justice of the peace of that place. In examining previously the records of the justice of the peace the witness had found that certain sums due from the municipal president to the justice of the peace had not been turned over to the latter. In view of this he went immediately to the office of the village president, Carlos H. Acebedo, the accused, and asked him why he had not turned over certain sums collected on behalf of the justice of the peace for which his secretary had given receipts. The appellant answered that he had left the matter of the collection of the costs and fines and the turning over of the same to his secretary, Crisanto P. Urbina. Thereupon the witness went to the secretary's desk, which was near that of the accused, and asked him if he had collected any money which he had not turned over to the justice of the peace. The secretary appeared to be nervous and was unable to give a satisfactory answer. At first he said that he had already turned over the sums for which he had given receipts, but later said that he had forgotten to do so. Upon asking the accused why he had not ordered his secretary to turn over said sums, he replied that he understood that the secretary had already done it. The witness asked the secretary for a list of the sums collected by him. He replied that he had no list other than certain memoranda which he had indorsed upon the various executions issued by the justice of the peace, which were in his desk. These notes simply expressed the payment of certain sums, which aggregated a total of P50.85. Upon asking both the accused and his secretary as to what had been done with this amount, the accused answered that his secretary ought to have it. The secretary thereupon opened his money box but could find therein only P10.55. The witness then asked him for the balance and he replied that he would get it from the house. Again asking the accused why he had not turned over those sums immediately after having collected them, calling his attention to the fact that several months before he had spoken to him about the same matter, at which time he had told him that it was his duty always to turn over sums collected as quickly as they were recovered, the accused gave no other explanation than that he had confided the whole matter to his secretary.

It appears also from the testimony of this witness that the offices of the village president and the justice of the peace were in the same building.

From the testimony of other witnesses and the exhibits, it appears that on the 29th day of December, 1908, the

accused turned over to the justice of the peace, through his secretary Urbina, certain sums collected since the last accounting, which took place on the 6th day of December of the same year. It was later discovered, however, that on the 3d, 8th and 17th of the said month the secretary made certain collections in the name of the accused amounting to P29.90, according to the contents of Exhibits "B," "E," "F" and "H," which collections were not included in the sum turned over on the said 29th day of December. Neither were such sums turned over on the 17th of February, 1909, when the next report was made; but they were accounted for to the justice of the peace on the 13th of April, 1909, together with other collections, after the accused had been required by the auditor to turn over all moneys in his hands.

It is unquestioned that the appellant was unable to turn over to the justice of the peace the said P29.90, together with certain other sums, making nearly P40, and that he alleged as an excuse that said sums had been collected by his secretary, Crisanto P. Urbina, to whom he had confided their collection and who, he believed, had turned them over to the proper official. From this the learned attorney for the people argues that the accused must necessarily be guilty of the malversation of said sum. We do not think that this conclusion necessarily follows. Under the provisions of the law a person is guilty of malversation of public funds only when he converts them to his own use or to the use of some other person, or when he handles them so negligently as to permit someone else to convert them. In this case it is unquestioned, from the evidence, that the accused did not convert said sums or any portion of them to his own use, nor to the use of any other person. It appears proved beyond question that said sums were converted by his secretary, Crisanto P. Urbina, to his own personal use and not to the use or benefit of the appellant in this case. That portion of the law which provides that the failure on the part of a person to account for public funds which have come into his hands is prima facie evidence of his guilt does not meet the situation here presented. Such presumption simply takes the place of affirmative proofs showing the actual conversion. It obviates the necessity of proving acts of conversion on the part of the accused, a thing almost always extremely difficult to do. Therefore, such presumption stands, making a prima facie case against the accused only until such time as he rebuts it by proofs showing the contrary. In the case at bar the appellant has presented proofs conclusively showing that such presumption is not applicable in his case, inasmuch as he did not receive the money, never had it in his physical possession, and did not convert the same. This court recently convicted the said Crisanto P. Urbina of the crime of estafa for stealing the very sum, or a part thereof, which the appellant in this case is charged with having embezzled. No conspiracy between the appellant and his secretary has been shown in this case, nor did such conspiracy appear in the case against Urbina. No guilty knowledge of the theft committed by the secretary was shown on the part of the appellant in this case, nor does it appear that he in any way participated in the fruits of the crime. If the secretary stole the money in question without the knowledge or consent of the appellant and without negligence on his part, then certainly the latter can not be convicted of embezzling the same money or any part thereof.

The evidence completely fails in showing that any portion of the money in this case came actually into the hands of the appellant. It fails utterly to establish that he had any knowledge of the peculations of his secretary. It, therefore, fails to demonstrate that he, directly or indirectly, embezzled the money in question or any portion thereof. Nor is it shown that the accused was guilty of negligence or bad faith in leaving the collection and remitting of said sums to his secretary. The fact that the appellant permitted his secretary to make these collections and to turn the sums collected over to the justice of the peace does not constitute such abandonment, fault or negligence as is described and penalized in the law.

A person, to be guilty of a crime, must commit that crime himself or he must, in some manner, participate in its commission or in the fruits thereof. The appellant in this case, so far as appears from the record, has done none of these things.

For these reasons the judgment of conviction is hereby reversed and the discharge of the defendant from custody ordered forthwith.

Arellano, C. J., Mapa, Carson, and Trent, JJ., concur.

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.