

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. VIRGILIO L. VILLANUEVA, DEFENDANT AND APPELLANT.*G.R. Nos. 39047-39052. October 31, 1933*

Ponente: AVANCEÑA, C.J.

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On December 7, 1931, there was sent from Honokaa, Hawaii, a postal money order for the sum of P200 in favor of Irene Sanchez, resident of Santa Lucia, Ilocos Sur. On January 14, 1932, there were likewise sent from Watsonville, California, five postal money orders, four of which were for the sum of P200 each and one for the sum of P100, in favor of Feliciano Isidro resident of the same municipality of Santa Lucia, Ilocos Sur. The postal money order in favor of Irene Sanchez was sent her by her son Conde E. Aceta and the ones sent to Feliciano Isidro, by his son Victor. In or about the month of March, 1932, Irene Sanchez and Feliciano Isidro, who had been informed by letter that the money orders in Question had been sent them, went to the post office of Santa Lucia to make inquiries regarding the matter. The defendant Virgilio Villanueva who was then the postmaster of Santa Lucia, informed them that the money orders had not yet been received. Irene Sanchez and Feliciano Isidro returned to the same office twice to make the same inquiry but they were given the same information that the money orders had not yet been received. In April of the same year, when Feliciano Isidro went there again, the defendant informed him that he had already received the money orders and that he had appropriated the amount thereof. Consequently, through the intervention of Pedro Callejo, principal of the Santa Lucia Primary School, the defendant signed two documents (Exhibits B and D) wherein he admitted having received the money orders, forged the signatures of Irene Sanchez and Feliciano Isidro thereon, collected and appropriated the respective amounts thereof. Furthermore, we find that this admission by the defendant was made voluntarily.

By way of defense, the defendant attempted to prove that he paid the interested parties the amount of the money orders, that he signed Irene Sanchez's name on the money order sent her because her daughter, who presented it and to whom he paid the corresponding amount, did not know how to sign her name; that he signed the name of Feliciano Isidro on the money orders because the latter had authorized him to do so. These allegations, however, were not proven during the trial and are contradicted by the admission made by the defendant in Exhibits B and D. On the other hand, the fact that the defendant did not enter the receipt of the money orders in question in the book for registered matter (Exhibit J), undoubtedly to conceal it, and that the defendant further affixed the name of Irene Sanchez to the money order drawn in her favor and that of Feliciano Isidro to those sent him, in different handwritings, show the defendant's intent to conceal the crime he was committing. Furthermore, Irene Sanchez and Feliciano Isidro have denied all such allegations of the accused.

Even if the signatures of Irene Sanchez and Feliciano Isidro had not been imitated on the money orders, the fact that they were signed thereon in order to make it appear that they intervened in the execution thereof in the sense that they received the corresponding amounts, when they did not in fact intervene nor receive the amounts in question, is sufficient to qualify the crime of falsification of public documents (U. S. vs. Cinco and Redoña, 42

Phil., 839).

The amount of these money orders had the nature of a public fund while it was under the custody of the defendant as postmaster of Santa Lucia, and the appropriation thereof by the said defendant constitutes the crime of malversation of public funds.

The falsification of each of these six money orders committed separately by means of different acts constitutes independent crimes of falsification (U. S. vs. Infante and Barreto, 36 Phil., 146), and the appropriation of the respective amounts thereof by the defendant, likewise constitutes different crimes of malversation. In the record of payments then kept by the defendant, it appears that the respective amounts of the money orders had been paid on different dates, proving that the appropriation thereof was made on different occasions. Furthermore, no objection had been filed to any of the informations presented in the trial court.

We agree with the opinion of the defense that falsification was not a necessary means for the commission of the crime of malversation, inasmuch as the amounts embezzled were in the possession of the defendant and he could have appropriated them just the same without the necessity of falsifying the money orders, and that if the defendant also committed falsification, it was done for the sole purpose of concealing the crime of malversation.

We are of the opinion that the defendant is guilty of six crimes of malversation in the sum of P200 in each and every one of the cases Nos. 39047, 39048, 39049, 39050 and 39051 and in the sum of P100 in case No. 39052 and of six crimes of falsification of public documents in each and every one of the aforesaid cases.

Wherefore, with the understanding that the accused is sentenced in each and every one of the six aforesaid cases for the crime of falsification of public documents to eight years and one day of prision mayor and for malversation of public funds to one year, eight months and twenty-one days of prision correccional, the judgment appealed from is hereby affirmed in all other respects, with the costs.

However, considering the penalty herein imposed as excessive, we hereby recommend to His Excellency the Governor-General, such clemency as he may deem just. So ordered.

Street, Abad Santos, Vickers, and Butte, JJ., concur.

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