

4 Phil. 526

[ G.R. No. 2053. May 01, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MATIAS BUNAGAN,  
DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**CARSON, J.:**

Matias Bunagan, the appellant in this case, was convicted of the crime of misappropriation of public funds, as defined and penalized in paragraph 1 of article 392 of the Penal Code.

While it was proven beyond reasonable doubt that the accused did in fact misappropriate public funds amounting to 1,732.62 pesos, local currency, and made use of the same in his private business, as alleged in the information, nevertheless as he made restitution of said funds, and as it does not affirmatively appear from the evidence that said improper use of these funds caused damage or embarrassment to the public service, we are of opinion that the offense committed was that defined and penalized in paragraph 3 of said article 392, and that the penalty should have been imposed in accordance therewith. (United States vs. Lorenzo Duran,<sup>[1]</sup> 1 Off. Gaz., 888.)

We therefore reverse the sentence appealed from and instead thereof we sentence the accused to three years' "suspension" from the office of municipal treasurer, to pay a fine of P200, Philippine currency, and in case of insolvency to subsidiary "suspension" at the rate of one day for each 12 pesetas for so much of said fine as remains unpaid, and to pay the costs of the proceedings in both instances. So ordered. So ordered.

*Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.*

<sup>[1]</sup> 2 Phil. Rep., 604.

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