

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 81

REPRIMANDING AND IMPOSING A FINE ON MR. DOMINGO A. CARILLO,
REGISTER OF DEEDS OF LANA O DEL SUR.

This is an administrative case against Register of Deeds Domingo A. Carillo of Lanao del Sur, for alleged shortage of six thousand nine hundred fifty-one pesos and eighty centavos (P6,951.80) in one instance, and one thousand fifty-eight pesos and eighty-three centavos (P1,058.83) in another instance, found in the collections of the registry.

The case was formally investigated by a committee composed of two attorneys of the Land Registration Commission who found respondent guilty of violating an office regulation in failing to deposit daily the cash collections of the registry with the Provincial Treasurer as required by L.R.C. Memorandum Circular dated December 11, 1956. The Land Registration Commissioner concurred in the recommendation of the committee that respondent be fined in an amount equivalent to three months salary, which recommendation was, likewise, concurred in by the Secretary of Justice.

The records show that on June 9, 1961, Mr. Escolastico Benete, Acting Assistant Provincial Auditor of Lanao del Sur conducted an examination on the cash and accounts of respondent. Respondent was found short of P6,951.80, as a result of which, he was ordered formally investigated.

Respondent did not dispute the findings of the examining auditor as to the alleged shortage but offered the explanation that said amount of P6,951.80 was in his house for safekeeping at the time of examination because the safe of said office had been out of order since 1958; hence, cash collections of the registry were either deposited in the office of the Provincial Treasurer or kept in his house for safekeeping.

It was further averred by respondent that he chose to keep the money in his house because of his experience in the past that at times there was no money in the Provincial Treasurer's Office with which to exchange his receipts of deposits

at the time of remitting said collections to the National Treasurer.

With respect to the shortage of ₱1,058.83, it was alleged that the respondent was found short thereof upon examination by an examiner of the Auditor's Office on August 23, 1962.

However, the records show that on June 9, 1961, after respondent was declared short of his cash collections in the amount of ₱6,951.80, he designated Mr. Valentin Sabaduquia, a clerk in the Register of Deeds Office as collecting clerk and accountable officer, charged with the duty of issuing receipts, collecting and remitting collections. Mr. Sabaduquia, being the collecting officer of the registry, safeguarded the registry's cash collections by keeping such in his house and/or depositing it with the Provincial Treasurer and later remitting the same to the National Treasury.

On the day that the examination of the cash and accounts of the registry took place, and there was found to be a shortage of ₱1,058.83, Mr. Sabaduquia was on sick leave. However, he had the cash with him when he later reported for duty.

From all the foregoing facts, it is believed that in the first case respondent cannot be guilty of malversation because at the time of the first examination he had the money in his custody. It is true that the last paragraph of Art. 217 of the Revised Penal Code, which provides:

"The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses."

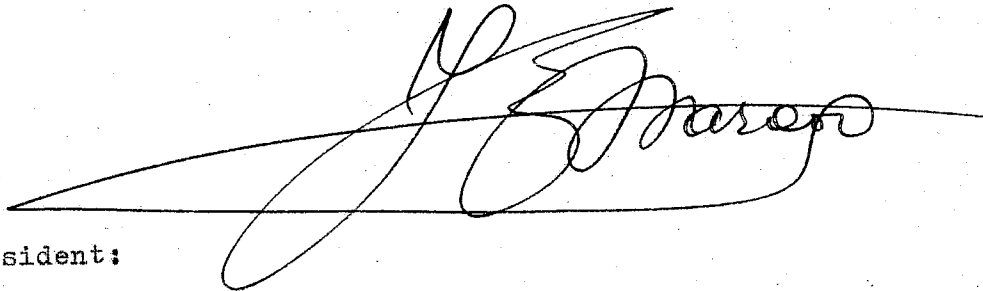
raises a prima facie case against him. But this may be rebutted or overcome by proof to the contrary as when the accused has adduced evidence showing that he has not put said funds or property to personal use, in which case the presumption is at an end and the prima facie case is destroyed (U.S. vs. Catolico, 18 Phil. 504; U.S. vs. Francisco, 35 Phil. 248; People vs. Reyes, 49 O.G. 4384). In the present case, respondent had satisfactorily explained the absence of the said funds in the registry at the time of examination, in which case he cannot be guilty thereof.

However, respondent although presumably acting in good faith cannot be completely without fault in keeping such cash collection in his house, he having violated an office regulation. Respondent's excuse may be plausible but it does not appear from the records that he did something to remedy the situation so as to comply with said circular. I therefore find respondent's act a flagrant violation of a valid and existing office regulation.


On the second charge, although respondent did not commit any act of dishonesty, it appearing that the order he issued was valid and binding, I find him negligent in not properly supervising the actuations of his subordinate with regard to the daily deposit of cash collections and their remittance to the National Treasurer, especially so, when these same acts were the basis of the preceding case against him.

Wherefore, and as recommended by the Land Registration Commissioner and the Secretary of Justice, Mr. Domingo A. Carillo is hereby fined his three (3) months pay and further reprimanded and warned that a repetition of the same or similar offense will be dealt with more severely.

Done in the City of Manila, this 16th day of August ,
in the year of our Lord, nineteen hundred and sixty-seven.



By the President:



RAFAEL M. SALAS
Executive Secretary