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immediately transmitted the records of the case to said Division, but for some reason, the CLAO office in Manila failed to file the necessary memorandum on appeal, delaying the case for a considerable period. However, upon discovery of such omission, the original counsel for respondent employees immediately sought to rectify the same by preparing and himself filing the memorandum on appeal.

As a general rule, negligence of counsel may not be condoned and should bind the client. Under the special circumstances of this case, however, we find the delay excusable. It cannot be attributed to private respondents or their Maguindanao counsel who had every right to presume that official duty would be regularly performed by the CLAO in Manila. Considering, the circumstances in which Atty. Ali found the respondents' appeal, his display of diligence in the pursuit of the appeal for his clients should be commended instead of deplored. We find for the private respondents.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Paras, JJ.*, concur.

EN BANC

[G.R. No. 56132. October 2, 1986]

VICENTE LUZ, *petitioner, vs.* **THE HONORABLE SANDIGANBAYAN and THE PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

CRIMINAL LAW; MALVERSATION OF PUBLIC FUNDS AND FALSIFICATION OF PUBLIC DOCUMENTS; NOT

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COMMITTED IN CASE AT BAR. — The accused alleges in his defense that he knew nothing of the scheme devised by the mayor to enable the policemen to get paid, that he did not know them personally and did not know they were really policemen; that at any rate his duty to allow payment was purely ministerial as long as the needed certification by the municipal mayor was present, since there is no law or regulation which requires him to get out into the roads and bridges to see for himself whether or not the persons supposed to be paid were actually performing their jobs. We believe he should be acquitted on the basis of reasonable doubt, among other things. No proof has been given of the charge, that he knew of the mayor's plan. And besides the presumption of good faith, it is clear that what he did was purely ministerial, in view of the certification that had been made by the municipal mayor. Were he to be given the task of verifying whether or not the employees and laborers of the municipality are really performing their assigned jobs, his would be an impossible function.

APPEARANCES OF COUNSEL

Rafael Mison, Jr. for petitioner.
The Solicitor General for respondents.

D E C I S I O N

PARAS, *J* :

In a complaint filed on July 19, 1980, (apparently as a retaliatory move for his ouster as municipal treasurer of the municipality of Bula, province of Camarines Sur) with the Sandiganbayan, Nestor R. Rueda charged the following with the crimes of malversation of public funds and falsification of public documents:

1. herein petitioner Vicente Luz, Acting Municipal Treasurer[1] (who had replaced complainant Rueda);
2. Sabino Pontanal; mayor of the municipality of Bula;

[1] He was Officer-in-Charge of the Treasurer's Office.

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3. Juan Baldoza;
4. Eliseo Parro;
5. Rodolfo Colambo
6. Juan Alba;
7. Manuel Raña;
8. Perfecto Nogales, and
9. Antonio Guinoo.

The undisputed facts indicate that the accused policemen, after rendering service as such policemen in the municipality were unable, for one reason or another, to get paid. To enable them to receive something, the mayor decided to have them included in the payroll for laborers on the municipal roads and bridges, and issued a *certification* to said effect. The certification was then sent to petitioner who in his capacity as acting municipal treasurer and disbursing officer, signed the voucher involved (Voucher No. 118). The policemen were then paid. When complainant learned of this irregularity, (with the government being compelled to disburse some P336.00, or P48.00 for each of the seven policemen involved), he filed his charge with the Sandiganbayan. After trial, all the aforementioned accused were acquitted of the crime of malversation of public funds and all except petitioner Vicente Luz were acquitted of the crime of falsification of public document. No sentence was imposed on the mayor because he had died while the trial was in progress. As already stated petitioner was convicted of falsification of public document and was sentenced to:

> an indeterminate imprisonment ranging from two (2) years, four (4) months and one (1) day of *prision correccional* as minimum, eight (8) years and one (1) day of *prision Mayor* as maximum, to pay a fine of P2,000.00 and to pay the costs.

After his motion for reconsideration was denied, he filed the instant petition with Our Court.

He alleges in his defense that he knew nothing of the scheme devised by the mayor to enable the policemen to get paid, that he did not know them personally and did not know they were really policemen; that at any rate his duty to allow payment

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was purely ministerial as long as the needed certification by the municipal mayor was present, since there is no law or regulation which requires him to get out into the roads and bridges to see for himself whether or not the persons supposed to be paid were actually performing their jobs.

We believe he should be acquitted on the basis of reasonable doubt, among other things. No proof has been given of the charge, that he knew of the mayor's plan. And besides the presumption of good faith, it is clear that what he did was purely ministerial, in view of the certification that had been made by the municipal mayor. (See *People v. Reodica*, 62 Phil. 567). Were he to be given the task of verifying whether or not the employees and laborers of the municipality are really performing their assigned jobs (See *U.S. v. Balais*, 17 Phil. 503), his would be an impossible function.

WHEREFORE, petitioner is hereby ACQUITTED on reasonable doubt.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and *Feliciano, JJ.*, concur.

FIRST DIVISION

[G.R. No. 69668. October 2, 1986]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **HUMBERTO TEMPONGKO, JR.,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; BURDEN OF PROOF IN CRIMINAL CASES; LIES IN THE PROSECUTION.— The