

FRANCISCO M. LECAROS AND LENLIE LECAROS, PETITIONERS, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 130872. March 25, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

FRANCISCO M. LECAROS and LENLIE LECAROS, father and son, were convicted by the Sandiganbayan of thirteen (13) counts of estafa through falsification of public documents.[1] They now seek a review of their conviction as they insist on their innocence.

Petitioner Francisco M. Lecaros was the Municipal Mayor of Santa Cruz, Marinduque, while his son, his co-petitioner Lenlie Lecaros, was the outgoing chairman of the Kabataang Barangay (KB) of Barangay Bagong Silang, Municipality of Santa Cruz, and concurrently a member of its Sangguniang Bayan (SB) representing the Federation of Kabataang Barangays.

In the 1985 election for the Kabataang Barangay Jowil Red[2] won as KB Chairman of Barangay Matalaba, Santa Cruz. Parenthetically, Lenlie Lecaros did not run as candidate in this electoral exercise as he was no longer qualified for the position after having already passed the age limit fixed by law.

Sometime in November 1985 Red was appointed by then President Ferdinand Marcos as member of the Sangguniang Bayan of Santa Cruz representing the KBs of the municipality. Imee Marcos-Manotoc, then the National Chairperson of the organization, sent a telegram to Red confirming his appointment and advising him further that copies of his appointment papers would be sent to him in due time through the KB Regional Office.[3] Red received the telegram on 2 January 1986 and showed it immediately to Mayor Francisco M. Lecaros.

On 7 January 1986, armed with the telegram and intent on assuming the position of sectoral representative of the KBs to the SB, Red attended the meeting of the Sanggunian upon the invitation of one of its members, Kagawad Rogato Lumawig. In that meeting, Mayor Francisco M. Lecaros informed Red that he could not yet sit as member of the municipal council until his appointment had been cleared by the Governor of Marinduque. Nonetheless, the telegram was included in the agenda as one of the subjects discussed in the meeting.

Red finally received his appointment papers sometime in January 1986.[4] But it was only on 23 April 1986, when then President Corazon C. Aquino was already in power,[5] that he forwarded these documents to Mayor Lecaros. This notwithstanding, Red was still not allowed by the mayor to sit as sectoral representative in the Sanggunian.

Meanwhile, Mayor Lecaros prepared and approved on different dates the payment to Lenlie Lecaros of twenty-six (26) sets of payrolls for the twenty-six (26) quincenas covering the period 16 January 1986 to 30 January 1987. Lenlie Lecaros signed the payroll for 1-15 January 1986 and then authorized someone else to sign all the other payrolls for the succeeding quincenas and claim the corresponding salaries in his behalf.

On 25 October 1989, or three (3) years and nine (9) months from the date he received his appointment papers

from President Marcos, Red was finally able to secure from the Aquino Administration a confirmation of his appointment as KB Sectoral Representative to the Sanggunian Bayan of Santa Cruz.

Subsequently, Red filed with the Office of the Ombudsman several criminal complaints against Mayor Francisco Lecaroz and Lenlie Lecaroz arising from the refusal of the two officials to let him assume the position of KB sectoral representative. After preliminary investigation, the Ombudsman filed with the Sandiganbayan thirteen (13) Informations for estafa through falsification of public documents against petitioners, and one (1) Information for violation of Sec. 3, par. (e), of RA No. 3019, the Anti-Graft and Corrupt Practices Act, against Mayor Lecaroz alone.

On 7 October 1994 the Sandiganbayan rendered a decision finding the two (2) accused guilty on all counts of estafa through falsification of public documents and sentenced each of them to -

a) imprisonment for an indeterminate period ranging from a minimum of FIVE (5) YEARS, ELEVEN (11) MONTHS AND ONE (1) DAY of prision correccional to a maximum of TEN (10) YEARS AND ONE (1) DAY of prision mayor FOR EACH OF THE ABOVE CASES;

b) a fine in the amount of FIVE THOUSAND PESOS (P5,000) FOR EACH OF THE ABOVE CASES or a total of SIXTY-FIVE THOUSAND PESOS (P65,000), and

c) perpetual special disqualification from public office in accordance with Art. 214 of the Revised Penal Code.

x x x (and) to pay jointly and severally the amount of TWENTY-THREE THOUSAND SIX HUNDRED SEVENTY-FIVE PESOS (P23,675), the amount unlawfully obtained, to the Municipality of Sta. Cruz, Marinduque in restitution.

The Sandiganbayan ruled that since Red was elected president of the KB and took his oath of office sometime in 1985 before then Assemblywoman Carmencita O. Reyes his assumption of the KB presidency upon the expiration of the term of accused Lenlie Lecaroz was valid. Conversely, the accused Lenlie Lecaroz ceased to be a member of the KB on the last Sunday of November 1985 and, as such, was no longer the legitimate representative of the youth sector in the municipal council of Sta. Cruz, Marinduque.

In convicting both accused on the falsification charges, the Sandiganbayan elucidated -

x x x x when, therefore, accused MAYOR FRANCISCO LECAROS entered the name of his son, the accused LENLIE LECAROS, in the payroll of the municipality of Sta. Cruz for the payroll period starting January 15, 1986, reinstating accused LENLIE LECAROS to his position in the Sangguniang Bayan, he was deliberately stating a falsity when he certified that LENLIE LECAROS was a member of the Sangguniang Bayan. The fact is that even accused LENLIE LECAROS himself no longer attended the sessions of the Sangguniang Bayan of Sta. Cruz, and starting with the payroll for January 16 to 31, 1986, did not personally pick up his salaries anymore.

The accused MAYOR's acts would fall under Art. 171, par. 4, of The Revised Penal Code which reads:

Art. 171. Falsification by public officer, employee or notary or ecclesiastical minister. - The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary public who, taking advantage of his official position, shall falsify a document by committing any of the following acts: x x x x 4. Making untruthful statements in a narration of facts.

x x x x

Clearly, falsification of public documents has been committed by accused MAYOR LECAROS.

Likewise from these acts of falsification, his son, accused LENLIE LECAROS, was able to draw salaries from the municipality to which he was not entitled for services he had admittedly not rendered. This constitutes Estafa x x

x x the deceit being the falsification made, and the prejudice being that caused to the municipality of Sta. Cruz, Marinduque for having paid salaries to LENLIE LECAROS who was not entitled thereto.

Conspiracy was alleged in the Informations herein, and the Court found the allegation sufficiently substantiated by the evidence presented.

There is no justifiable reason why accused MAYOR LECAROS should have reinstated his son LENLIE in the municipal payrolls from January 16, 1986 to January 31, 1987, yet he did so. He could not have had any other purpose than to enable his son LENLIE to draw salaries thereby. This conclusion is inescapable considering that the very purpose of a payroll is precisely that -- to authorize the payment of salaries. And LENLIE LECAROS did his part by actually drawing the salaries during the periods covered, albeit through another person whom he had authorized.

By the facts proven, there was conspiracy in the commission of Estafa between father and son.

However, with respect to the charge of violating Sec. 3, par. (e), of RA No. 3019, the Sandiganbayan acquitted Mayor Francisco Lecaros. It found that Red was neither authorized to sit as member of the SB because he was not properly appointed thereto nor had he shown to the mayor sufficient basis for his alleged right to a seat in the municipal council. On this basis, the court a quo concluded that Mayor Lecaros was legally justified in not allowing Red to assume the position of Kagawad.

On 1 October 1994 the Sandiganbayan denied the motion for reconsideration of its decision filed by the accused. This prompted herein petitioners to elevate their cause to us charging that the Sandiganbayan erred:

First, in holding that Red had validly and effectively assumed the office of KB Federation President by virtue of his oath taken before then Assemblywoman Carmencita Reyes on 27 September 1985, and in concluding that the tenure of accused Lenlie Lecaros as president of the KB and his coterminous term of office as KB representative to the SB had accordingly expired;

Second, assuming arguendo that the term of office of the accused Lenlie Lecaros as youth representative to the SB had expired, in holding that accused Lenlie Lecaros could no longer occupy the office, even in a holdover capacity, despite the vacancy therein;

Third, granting arguendo that the tenure of the accused Lenlie Lecaros as federation president had expired, in holding that by reason thereof accused Lenlie Lecaros became legally disqualified from continuing in office as KB Sectoral Representative to the SB even in a holdover capacity;

Fourth, in not holding that under Sec. 2 of the Freedom Constitution and pursuant to the provisions of the pertinent Ministry of Interior and Local Governments (MILG) interpretative circulars, accused Lenlie Lecaros was legally entitled and even mandated to continue in office in a holdover capacity;

Fifth, in holding that the accused had committed the crime of falsification within the contemplation of Art. 171 of The Revised Penal Code, and in not holding that the crime of estafa of which they had been convicted required criminal intent and malice as essential elements;

Sixth, assuming arguendo that the accused Lenlie Lecaros was not legally entitled to hold over, still the trial court erred in not holding - considering the difficult legal questions involved - that the accused acted in good faith and committed merely an error of judgment, without malice and criminal intent; and,

Seventh, in convicting the accused for crimes committed in a manner different from that alleged in the Information under which the accused were arraigned and tried.

The petition is meritorious. The basic propositions upon which the Sandiganbayan premised its conviction of the accused are: (a) although Jowil Red was duly elected KB Chairman he could not validly assume a seat in the Sanggunian as KB sectoral representative for failure to show a valid appointment; and, (b) Lenlie Lecaroz who was the incumbent KB representative could not hold over after his term expired because pertinent laws do not provide for holdover.

To resolve these issues, it is necessary to refer to the laws on the terms of office of KB youth sectoral representatives to the SB and of the KB Federation Presidents. Section 7 of BP Blg. 51 and Sec. 1 of the KB Constitution respectively provide -

Sec. 7. Term of Office. - Unless sooner removed for cause, all local elective officials hereinabove mentioned shall hold office for a term of six (6) years, which shall commence on the first Monday of March 1980.

In the case of the members of the sanggunian representing the association of barangay councils and the president of the federation of kabataang barangay, their terms of office shall be coterminous with their tenure as president of their respective association and federation .

x x x x

Sec 1. All incumbent officers of the Kabataang Barangay shall continue to hold office until the last Sunday of November 1985 or such time that the newly elected officers shall have qualified and assumed office in accordance with this Constitution.

The theory of petitioners is that Red failed to qualify as KB sectoral representative to the SB since he did not present an authenticated copy of his appointment papers; neither did he take a valid oath of office. Resultantly, this enabled petitioner Lenlie Lecaroz to continue as member of the SB although in a holdover capacity since his term had already expired. The Sandiganbayan however rejected this postulate declaring that the holdover provision under Sec. 1 quoted above pertains only to positions in the KB, clearly implying that since no similar provision is found in Sec. 7 of B.P. Blg. 51, there can be no holdover with respect to positions in the SB.

We disagree with the Sandiganbayan. The concept of holdover when applied to a public officer implies that the office has a fixed term and the incumbent is holding onto the succeeding term.[6] It is usually provided by law that officers elected or appointed for a fixed term shall remain in office not only for that term but until their successors have been elected and qualified. Where this provision is found, the office does not become vacant upon the expiration of the term if there is no successor elected and qualified to assume it, but the present incumbent will carry over until his successor is elected and qualified, even though it be beyond the term fixed by law.[7]

In the instant case, although BP Blg. 51 does not say that a Sanggunian member can continue to occupy his post after the expiration of his term in case his successor fails to qualify, it does not also say that he is proscribed from holding over. Absent an express or implied constitutional or statutory provision to the contrary, an officer is entitled to stay in office until his successor is appointed or chosen and has qualified.[8] The legislative intent of not allowing holdover must be clearly expressed or at least implied in the legislative enactment,[9] otherwise it is reasonable to assume that the law-making body favors the same.

Indeed, the law abhors a vacuum in public offices,[10] and courts generally indulge in the strong presumption against a legislative intent to create, by statute, a condition which may result in an executive or administrative office becoming, for any period of time, wholly vacant or unoccupied by one lawfully authorized to exercise its functions.[11] This is founded on obvious considerations of public policy, for the principle of holdover is specifically intended to prevent public convenience from suffering because of a vacancy[12] and to avoid a hiatus in the performance of government functions.[13]

The Sandiganbayan maintained that by taking his oath of office before Assemblywoman Reyes in 1985 Red validly assumed the presidency of the KB upon the expiration of the term of Lenlie Lecaroz. It should be noted however that under the provisions of the Administrative Code then in force, specifically Sec. 21, Art. VI thereof, members of the then Batasang Pambansa were not authorized to administer oaths. It was only after the approval of RA No. 6733[14] on 25 July 1989 and its subsequent publication in a newspaper of general circulation that members of both Houses of Congress were vested for the first time with the general authority to administer oaths. Clearly, under this circumstance, the oath of office taken by Jowil Red before a member of the Batasang Pambansa who had no authority to administer oaths, was invalid and amounted to no oath at all.

To be sure, an oath of office is a qualifying requirement for a public office; a prerequisite to the full investiture with the office.[15] Only when the public officer has satisfied the prerequisite of oath that his right to enter into the position becomes plenary and complete. Until then, he has none at all. And for as long as he has not qualified, the holdover officer is the rightful occupant. It is thus clear in the present case that since Red never qualified for the post, petitioner Lenlie Lecaroz remained KB representative to the Sanggunian, albeit in a carry over capacity, and was in every aspect a de jure officer,[16] or at least a de facto officer[17] entitled to receive the salaries and all the emoluments appertaining to the position. As such, he could not be considered an intruder and liable for encroachment of public office.[18]

On the issue of criminal liability of petitioners, clearly the offenses of which petitioners were convicted, i.e., estafa through falsification of public documents under Art. 171, par. 4, of The Revised Penal Code, are intentional felonies for which liability attaches only when it is shown that the malefactors acted with criminal intent or malice.[19] If what is proven is mere judgmental error on the part of the person committing the act, no malice or criminal intent can be rightfully imputed to him. Was criminal intent then demonstrated to justify petitioners' conviction? It does not so appear in the case at bar.

Ordinarily, evil intent must unite with an unlawful act for a crime to exist. *Actus non facit reum, nisi mens sit rea*. There can be no crime when the criminal mind is wanting. As a general rule, ignorance or mistake as to particular facts, honest and real, will exempt the doer from felonious responsibility. The exception of course is neglect in the discharge of a duty or indifference to consequences, which is equivalent to a criminal intent, for in this instance, the element of malicious intent is supplied by the element of negligence and imprudence[20] In the instant case, there are clear manifestations of good faith and lack of criminal intent on the part of petitioners.

First. When Jowil Red showed up at the meeting of the Sanggunian on 7 January 1986, what he presented to Mayor Francisco Lecaroz was a mere telegram purportedly sent by Imee Marcos-Manotoc informing him of his supposed appointment to the SB, together with a photocopy of a "Mass Appointment." Without authenticated copies of the appointment papers, Red had no right to assume office as KB representative to the Sanggunian, and petitioner Mayor Lecaroz had every right to withhold recognition, as he did, of Red as a member of the Sanggunian.

Second. It appears from the records that although Red received his appointment papers signed by President Marcos in January 1986, he forwarded the same to Mayor Francisco Lecaroz only on 23 April 1986 during which time President Marcos had already been deposed and President Aquino had already taken over the helm of government. On 25 March 1986 the Freedom Constitution came into being providing in Sec. 2 of Art. III thereof that -

Sec. 2. All elective and appointive officials and employees under the 1973 Constitution shall continue in office until otherwise provided by proclamation or executive order or upon the designation of their successors if such appointment is made within a period of one (1) year from February 26, 1986 (underscoring supplied).

Duty bound to observe the constitutional mandate, petitioner Francisco Lecaroz through the provincial governor forwarded the papers of Jowil Red to then Minister of Interior and Local Government Aquilino Pimentel, Jr., requesting advice on the validity of the appointment signed by former President Marcos. The response was the issuance of MILG Provincial Memorandum-Circular No. 86-02[21] and Memorandum-Circular No. 86-17[22] stating that -

PROVINCIAL MEMORANDUM-CIRCULAR NO. 86-02

2. That newly elected KB Federation Presidents, without their respective authenticated appointments from the president, cannot, in any way, represent their associations in any sangguniang bayan/sangguniang panlalawigan, as the case may be, although they are still considered presidents of their federations by virtue of the July 1985 elections.

MEMORANDUM CIRCULAR NO. 86-17

It is informed, however, that until replaced by the Office of the President or by this Ministry the appointive members of the various Sangguniang Bayan, Sangguniang Panlungsod, and the Sangguniang Panlalawigan shall continue to hold office and to receive compensation due them under existing laws, rules and regulations.

The pertinent provisions of the Freedom Constitution and the implementing MILG Circulars virtually confirmed the right of incumbent KB Federation Presidents to hold and maintain their positions until duly replaced either by the President herself or by the Interior Ministry. Explicit therein was the caveat that newly elected KB Federation Presidents could not assume the right to represent their respective associations in any Sanggunian unless their appointments were authenticated by then President Aquino herself. Truly, prudence impelled Mayor Lecaroz to take the necessary steps to verify the legitimacy of Red's appointment to the Sanggunian.

Third. Petitioners presented six (6) certified copies of opinions of the Secretaries of Justice of Presidents Macapagal, Marcos and Aquino concerning the doctrine of holdover. This consistently expressed the view espoused by the executive branch for more than thirty (30) years that the mere fixing of the term of office in a statute without an express prohibition against holdover is not indicative of a legislative intent to prohibit it, in light of the legal principle that just as nature abhors a vacuum so does the law abhor a vacancy in the government.[23] Reliance by petitioners on these opinions, as well as on the pertinent directives of the then Ministry of Interior and Local Government, provided them with an unassailable status of good faith in holding over and acting on such basis; and,

Fourth. It is difficult to accept that a person, particularly one who is highly regarded and respected in the community, would deliberately blemish his good name, and worse, involve his own son in a misconduct for a measly sum of P23,675.00, such as this case before us. As aptly deduced by Justice Del Rosario[24]

If I were to commit a crime, would I involve my son in it? And if I were a town mayor, would I ruin my name for the measly sum of P1,894.00 a month? My natural instinct as a father to protect my own son and the desire, basic in every man, to preserve one's honor and reputation would suggest a resounding NO to both questions. But the prosecution ventured to prove in these thirteen cases that precisely because they were father and son and despite the relatively small amount involved, accused Mayor Francisco Lecaroz conspired with Lenlie Lecaroz to falsify several municipal payrolls for the purpose of swindling their own town of the amount of P1,894.00 a month, and the majority has found them guilty. I find discomfort with this verdict basically for the reason that there was no criminal intent on their part to falsify any document or to swindle the government.

The rule is that any mistake on a doubtful or difficult question of law may be the basis of good faith.[25] In *Cabungcal v. Cordova*[26] we affirmed the doctrine that an erroneous interpretation of the meaning of the provisions of an ordinance by a city mayor does not amount to bad faith that would entitle an aggrieved party to

damages against that official. We reiterated this principle in *Mabutol v. Pascual*[27] which held that public officials may not be liable for damages in the discharge of their official functions absent any bad faith. *Sanders v. Veridiano II*[28] expanded the concept by declaring that under the law on public officers, acts done in the performance of official duty are protected by the presumption of good faith.

In ascribing malice and bad faith to petitioner Mayor Lecaroz, the Sandiganbayan cited two (2) circumstances which purportedly indicated criminal intent. It pointed out that the name of accused Lenlie Lecaroz was not in the municipal payroll for the first quincena of 1986 which meant that his term had finally ended, and that the reinstatement of Lenlie Lecaroz by Mayor Francisco Lecaroz in the payroll periods from 15 January 1986 and thereafter for the next twelve and a half (12 -1/2) months was for no other purpose than to enable him to draw salaries from the municipality.[29] There is however no evidence, documentary or otherwise, that Mayor Francisco Lecaroz himself caused the name of Lenlie Lecaroz to be dropped from the payroll for the first quincena of January 1986. On the contrary, it is significant that while Lenlie Lecaroz' name did not appear in the payroll for the first quincena of January 1986, yet, in the payroll for the next quincena accused Lenlie Lecaroz was paid for both the first and second quincenas, and not merely for the second half of the month which would have been the case if he was actually "dropped" from the payroll for the first fifteen (15) days and then "reinstated" in the succeeding payroll period, as held by the court *quo*.

From all indications, it is possible that the omission was due to the inadequate documentation of Red's appointment to and assumption of office, or the result of a mere clerical error which was later rectified in the succeeding payroll. This however cannot be confirmed by the evidence at hand. But since a doubt is now created about the import of such omission, the principle of equipoise should properly apply. This rule demands that all reasonable doubt intended to demonstrate error and not a crime should be resolved in favor of the accused. If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.[30]

Petitioners have been convicted for falsification of public documents through an untruthful narration of facts under Art. 171, par. 4, of The Revised Penal Code. For the offense to be established, the following elements must concur: (a) the offender makes in a document statements in a narration of facts; (b) the offender has a legal obligation to disclose the truth of the facts narrated; (c) the facts narrated by the offender are absolutely false; and, (d) the perversion of truth in the narration of facts was made with the wrongful intent of injuring a third person.

The first and third elements of the offense have not been established in this case. In approving the payment of salaries to Lenlie Lecaroz, Mayor Francisco Lecaroz signed uniformly-worded certifications thus -

I hereby certify on my official oath that the above payroll is correct, and that the services above stated have been duly rendered. Payment for such services is also hereby approved from the appropriations indicated.

When Mayor Lecaroz certified to the correctness of the payroll, he was making not a narration of facts but a conclusion of law expressing his belief that Lenlie Lecaroz was legally holding over as member of the Sanggunian and thus entitled to the emoluments attached to the position. This is an opinion undoubtedly involving a legal matter, and any "misrepresentation" of this kind cannot constitute the crime of false pretenses.[31] In *People v. Yanza*[32] we ruled -

Now then, considering that when defendant certified she was eligible for the position, she practically wrote a conclusion of law which turned out to be inexact or erroneous - not entirely groundless - we are all of the opinion that she may not be declared guilty of falsification, specially because the law which she has allegedly violated (Art. 171, Revised Penal Code, in connection with other provisions), punishes the making of

untruthful statements in a narration of facts - emphasis on facts x x x Unfortunately, she made a mistake of judgment; but she could not be held thereby to have intentionally made a false statement of fact in violation of Art. 171 above-mentioned.

The third element requiring that the narration of facts be absolutely false is not even adequately satisfied as the belief of Mayor Francisco Lecaroz that Lenlie Lecaroz was a holdover member of the Sanggunian was not entirely bereft of basis, anchored as it was on the universally accepted doctrine of holdover. La mera inexactitude no es bastante para integrar este delito.[33] If the statements are not altogether false, there being some colorable truth in them, the crime of falsification is deemed not to have been committed.

Finally, contrary to the finding of the Sandiganbayan, we hold that conspiracy was not proved in this case. The court a quo used as indication of conspiracy the fact that the accused Mayor certified the payrolls authorizing payment of compensation to his son Lenlie Lecaroz and that as a consequence thereof the latter collected his salaries. These are not legally acceptable indicia, for they are the very same acts alleged in the Informations as constituting the crime of estafa through falsification. They cannot qualify as proof of complicity or unity of criminal intent. Conspiracy must be established separately from the crime itself and must meet the same degree of proof, i.e., proof beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together however, the evidence must reasonably be strong enough to show community of criminal design.[34]

Perhaps subliminally aware of the paucity of evidence to support it, and if only to buttress its finding of conspiracy, the Sandiganbayan stressed that the two accused are father and son. Granting that this is not even ad hominem, we are unaware of any presumption in law that a conspiracy exists simply because the conspirators are father and son or related by blood.

WHEREFORE, the petition is GRANTED. The assailed Decision of 7 October 1994 and Resolution of 1 October 1997 of the Sandiganbayan are REVERSED and SET ASIDE, and petitioners FRANCISCO M. LECAROS and LENLIE LECAROS are ACQUITTED of all the thirteen (13) counts of estafa through falsification of public documents (Crim. Cases Nos. 13904-13916). The bail bonds posted for their provisional liberty are cancelled and released. Costs de oficio.

SO ORDERED.

Puno, Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Crim. Cases Nos. 13904-13916, *People v. Francisco M. Lecaroz and Lenlie Lecaroz*, assigned to the First Division, Sandiganbayan.

[2] Also referred to in the records as "Joel Red."

[3] Rollo, p. 68.

[4] TSN, 23 October 1991, p. 30.

[5] *Id.*, pp. 32-33.

[6] *State v. Simon*, 26 P. 170, 20 Or. 365, 377.

[7] Mechem, *A Treatise on the Law of Public Offices and Officers*, Sec. 397, pp. 257-258. See *Nuevo v. Angeles*, 76 Phil. 12 (1946).

- [8] 46 Corpus Juris 964, 968.
- [9] See Note 7.
- [10] See *Duldulao v. Ramos*, 91 Phil. 261 (1952).
- [11] *Johnson v. Collins*, 464 P.2d 647, 11 Ariz. App. 327.
- [12] *State ex rel. Barnes v. Holbrook*, 70 A.2d 556, 136 Conn. 312.
- [13] *Foley v. McNab*, 248 N.Y.S.2d 354, 42 Misc.2d 460.
- [14] "An Act to Amend Section 21, Title I, Book I of the Revised Administrative Code, and Section 41, Book I of the Administrative Code of 1987, Granting Members of Both Houses of the Congress of the Philippines the General Authority to Administer Oaths, and for Other Purposes."
- [15] *Smith v. County Engineering of San Diego County*, 72 Cal. Rptr. 501, 266 C.A. 2d 645.
- [16] *Tappy v. State ex rel. Byington*, 82 So. 2d 161.
- [17] *Kreidler v. State*, 24 Ohio St. 22.
- [18] *Ibid.*
- [19] *People v. Beronilla*, 96 Phil. 566 (1955).
- [20] *People v. Pacana*, 47 Phil. 49 (1924).
- [21] Records, p. 119, Annex "I-1."
- [22] *Id.*, pp.101-102, Annex "F."
- [23] Rollo, pp. 135-147, Annexes "D" to "I."
- [24] Concurring and Dissenting Opinion of Justice Del Rosario; Rollo, p. 167, Annex "A-2."
- [25] *Mendiola v. People*, G.R. Nos. 89983-84, 6 March 1992, 207 SCRA 85, 96.
- [26] No. L-16934, 31 July, 1964, 11 SCRA 584.
- [27] G.R. No. 60898, 29 September 1983, 124 SCRA 867.
- [28] No. L-46930, 10 June 1988, 162 SCRA 88.
- [29] Decision, pp. 20-23, Annex "A."
- [30] See Note 20.
- [31] 22 Am. Jur. 454, cited in *People v. Yanza*, 107 Phil. 888 (1960).
- [32] *Ibid.*
- [33] Reyes, *The Revised Penal Code*, Bk. II, 1981 Rev. Ed., p. 222, citing Cuello Calon, *Derecho Penal*, 6th Ed., Vol. II, p. 216.
- [34] *Magcusi v. Sandiganbayan*, G.R. No. 101545, 3 January 1995, 240 SCRA 13.

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