

**ATTY. VICENTE E. SALUMBIDES, JR., AND GLENDA ARAÑA,
PETITIONERS, VS. OFFICE OF THE OMBUDSMAN, RICARDO AGON,
RAMON VILLASANTA, ELMER DIZON, SALVADOR ADUL, AND AGNES
FABIAN, RESPO...**

G.R. No. 180917. April 23, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Petitioners Vicente Salumbides, Jr. (Salumbides) and Glenda Araña (Glenda) challenge the October 11, 2007 Decision and the December 13, 2007 Resolution of the Court of Appeals[1] in CA-G.R. SP No. 96889 affirming the Office of the Ombudsman's decision finding them guilty of Simple Neglect of Duty.

Salumbides and Glenda were appointed in July 2001 as Municipal Legal Officer/Administrator and Municipal Budget Officer, respectively, of Tagkawayan, Quezon.

Towards the end of 2001, Mayor Vicente Salumbides III (the mayor) saw the urgent need to construct a two-classroom building with fence (the projects) for the Tagkawayan Municipal High School[2] (TMHS) since the public school in the poblacion area would no longer admit high school freshmen starting school year 2002-2003. On how to solve the classroom shortage, the mayor consulted Salumbides who suggested that the construction of the two-classroom building be charged to the account of the Maintenance and Other Operating Expenses/ Repair and Maintenance of Facilities (MOOE/RMF) and implemented "by administration," as had been done in a previous classroom building project of the former mayor.

Upon consultation, Glenda advised Salumbides in December 2001, that there were no more available funds that could be taken from the MOOE/RMF, but the savings of the municipal government were adequate to fund the projects. She added, however, that the approval by the Sangguniang Bayan of a proposed supplemental budget must be secured.

The members of the Sangguniang Bayan having already gone on recess for the Christmas holidays, Glenda and Salumbides advised the mayor to source the funds from the P1,000,000 MOOE/RMF allocation in the approved Municipal Annual Budget for 2002.[3]

The mayor thus ordered on January 8, 2002 Municipal Engineer Jose Aquino (Aquino) to proceed with the construction of the projects based on the program of work and bill of materials he (Aquino) prepared with a total cost estimate of P222,000.

Upon advice of Municipal Planning and Development Officer Hernan Jason (Jason), the mayor included the projects in the list of local government projects scheduled for bidding on January 25, 2002 which, together with the January 31, 2002 public bidding, failed.

The mayor was to admit later his expectation or assumption of risk on reimbursement:

x x x It was my thinking that even if a bidder emerges and gets these 2 projects which were at the time on-going (although it was also my thinking then that no bidder would possibly bid for these 2 projects as these were cost-estimated very low-P150,000 for the 2-room school building P72,000 for the fencing) he (bidder) would be reasonable enough to reimburse what I had so far spent for the project. I said "I" because up to the time of the failed 2 biddings I have shouldered the "vale" of the laborers and I requisitioned some materials on credit on my own personal account, and not a single centavo was at the time disbursed by our municipal treasury until all requirements for negotiated purchase of the materials for the project had been accomplished. As a matter of fact, payments for the expenses on these 2 projects have been made only starting 19 March 2002. x x x[4] (underscoring supplied)

The construction of the projects commenced without any approved appropriation and ahead of the public bidding. Salumbides was of the opinion that the projects were regular and legal, based on an earlier project that was "implemented in the same manner, using the same source of fund and for the same reason of urgency" which was allowed "because the building was considered merely temporary as the TMHS is set to be transferred to an 8-hectare lot which the municipal government is presently negotiating to buy." [5]

Meanwhile, Aquino suggested to the Sangguniang Bayan the adoption of "model guidelines" in the implementation of infrastructure projects to be executed "by administration," while Councilor Coleta Sandro (Coleta) sponsored a Resolution to ratify the projects and to authorize the mayor to enter into a negotiated procurement. Both actions did not merit the approval of the Sangguniang Bayan.

On May 13, 2002, herein respondents Ricardo Agon, Ramon Villasanta, Elmer Dizon, Salvador Adul and Agnes Fabian, all members of the Sangguniang Bayan of Tagkawayan, filed with the Office of the Ombudsman a complaint[6] against Salumbides and Glenda (hereafter petitioners), the mayor, Coleta, Jason and Aquino.

The administrative aspect of the case, docketed as Case No. OMB-L-A-02-0276-E, charged petitioners et al. with Dishonesty, Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and violation of the Commission on Audit (COA) Rules and the Local Government Code.

By Order of June 14, 2002, the Office of the Ombudsman, denied the prayer to place petitioners et al. under preventive suspension pending investigation. By Order dated February 1, 2005, approved on April 11, 2005, it denied the motion for reconsideration but dropped the mayor and Coleta, both elective officials, as respondents in the administrative case, the 2004 elections having mooted the case. The parties were thereupon directed to submit their respective verified position papers to which petitioners, Jason and Aquino complied by submitting a consolidated position paper on May 19, 2005.

Meanwhile, in response to the subpoena duces tecum issued by the Office of the Ombudsman on February 18, 2005 requiring the regional officer of the COA to submit the post-audit report on the projects, Celerino Alviar, COA State Auditor II claimed by Affidavit of May 23, 2005 that the required documents were among those razed by fire on April 14, 2004 that hit the Office of the Municipal Accountant where they were temporarily stored due to lack of space at the Provincial Auditor's Office.

On October 17, 2005, the Office of the Ombudsman approved the September 9, 2005 Memorandum absolving Jason and Aquino, and finding petitioners guilty of Simple Neglect of Duty, for which they were meted the penalty of suspension from office for a maximum period of six months with a stern warning against a similar repetition. It also approved on November 2, 2006 the March 27, 2006 Order[7] denying the motion for reconsideration.

Their recourse to the appellate court having failed, petitioners come before this Court via Rule 45 of the Rules of Court.

For non-compliance with the rule on certification against forum shopping, the petition merits outright dismissal. The verification portion of the petition does not carry a certification against forum shopping.[8]

The Court has distinguished the effects of non-compliance with the requirement of verification and that of certification against forum shopping. A defective verification shall be treated as an unsigned pleading and thus produces no legal effect, subject to the discretion of the court to allow the deficiency to be remedied, while the failure to certify against forum shopping shall be cause for dismissal without prejudice, unless otherwise provided, and is not curable by amendment of the initiatory pleading.[9]

Petitioners' disregard of the rules was not the first. Their motion for extension of time to file petition was previously denied by Resolution of January 15, 2008[10] for non-compliance with the required showing of competent proof of identity in the Affidavit of Service. The Court, by Resolution of March 4, 2008,[11] later granted their motion for reconsideration with motion to admit appeal (Motion with Appeal) that was filed on February 18, 2008 or the last day of filing within the extended period.

Moreover, in their Manifestation/Motion[12] filed a day later, petitioners prayed only for the admission of nine additional copies of the Motion with Appeal "due to honest inadvertence" in earlier filing an insufficient number of copies. Petitioners were less than candid when they surreptitiously submitted a Motion with Appeal which is different from the first set they had submitted. The second set of Appeal includes specific Assignment of Errors[13] and already contains a certification against forum shopping[14] embedded in the Verification. The two different Verifications were notarized by the same notary public and bear the same date and document number.[15] The rectified verification with certification, however, was filed beyond the reglementary period.

Its lapses aside, the petition just the same merits denial.

Petitioners urge this Court to expand the settled doctrine of condonation[16] to cover coterminous appointive officials who were administratively charged along with the reelected official/appointing authority with infractions allegedly committed during their preceding term.

The Court rejects petitioners' thesis.

More than 60 years ago, the Court in *Pascual v. Hon. Provincial Board of Nueva Ecija* [17] issued the landmark ruling that prohibits the disciplining of an elective official for a wrongful act committed during his immediately preceding term of office. The Court explained that "[t]he underlying theory is that each term is separate from other terms, and that the reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor." [18]

The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people elect[e]d a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct[,] to practically overrule the will of the people.[19] (underscoring supplied)

Lizares v. Hechanova, et al. [20] replicated the doctrine. The Court dismissed the petition in that case for being moot, the therein petitioner "having been duly reelected, is no longer amenable to administrative sanctions." [21]

Ingco v. Sanchez, et al. [22] clarified that the condonation doctrine does not apply to a criminal case.[23] *Luciano v. The Provincial Governor, et al.*, [24] *Olivarez v. Judge Villaluz*, [25] and *Aguinaldo v. Santos* [26] echoed the qualified rule that reelection of a public official does not bar prosecution for crimes committed by him prior thereto.

Consistently, the Court has reiterated the doctrine in a string of recent jurisprudence including two cases involving a Senator and a Member of the House of Representatives.[27]

Salalima v. Guingona, Jr. [28] and Mayor Garcia v. Hon. Mojica [29] reinforced the doctrine. The condonation rule was applied even if the administrative complaint was not filed before the reelection of the public official, and even if the alleged misconduct occurred four days before the elections, respectively. Salalima did not distinguish as to the date of filing of the administrative complaint, as long as the alleged misconduct was committed during the prior term, the precise timing or period of which Garcia did not further distinguish, as long as the wrongdoing that gave rise to the public official's culpability was committed prior to the date of reelection.

Petitioners' theory is not novel.

A parallel question was involved in Civil Service Commission v. Sojor [30] where the Court found no basis to broaden the scope of the doctrine of condonation:

Lastly, We do not agree with respondent's contention that his appointment to the position of president of NORSU, despite the pending administrative cases against him, served as a condonation by the BOR of the alleged acts imputed to him. The doctrine this Court laid down in Salalima v. Guingona, Jr. and Aguinaldo v. Santos are inapplicable to the present circumstances. Respondents in the mentioned cases are elective officials, unlike respondent here who is an appointed official. Indeed, election expresses the sovereign will of the people. Under the principle of vox populi est suprema lex, the re-election of a public official may, indeed, supersede a pending administrative case. The same cannot be said of a re-appointment to a non-career position. There is no sovereign will of the people to speak of when the BOR re-appointed respondent Sojor to the post of university president.[31] (emphasis and underscoring supplied)

Contrary to petitioners' asseveration, the non-application of the condonation doctrine to appointive officials does not violate the right to equal protection of the law.

In the recent case of Quinto v. Commission on Elections,[32] the Court applied the four-fold test in an equal protection challenge[33] against the resign-to-run provision, wherein it discussed the material and substantive distinctions between elective and appointive officials that could well apply to the doctrine of condonation:

The equal protection of the law clause is against undue favor and individual or class privilege, as well as hostile discrimination or the oppression of inequality. It is not intended to prohibit legislation which is limited either in the object to which it is directed or by territory within which it is to operate. It does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced. The equal protection clause is not infringed by legislation which applies only to those persons falling within a specified class, if it applies alike to all persons within such class, and reasonable grounds exist for making a distinction between those who fall within such class and those who do not.

Substantial distinctions clearly exist between elective officials and appointive officials. The former occupy their office by virtue of the mandate of the electorate. They are elected to an office for a definite term and may be removed therefrom only upon stringent conditions. On the other hand, appointive officials hold their office by virtue of their designation thereto by an appointing authority. Some appointive officials hold their office in a permanent capacity and are entitled to security of tenure while others serve at the pleasure of the appointing authority.

x x x x

An election is the embodiment of the popular will, perhaps the purest expression of the sovereign power of the people. It involves the choice or selection of candidates to public office by popular vote. Considering that elected officials are put in office by their constituents for a definite term, x x x complete deference is accorded

to the will of the electorate that they be served by such officials until the end of the term for which they were elected. In contrast, there is no such expectation insofar as appointed officials are concerned. (emphasis and underscoring supplied)

The electorate's condonation of the previous administrative infractions of the reelected official cannot be extended to that of the reappointed coterminous employees, the underlying basis of the rule being to uphold the will of the people expressed through the ballot. In other words, there is neither subversion of the sovereign will nor disenfranchisement of the electorate to speak of, in the case of reappointed coterminous employees.

It is the will of the populace, not the whim of one person who happens to be the appointing authority, that could extinguish an administrative liability. Since petitioners hold appointive positions, they cannot claim the mandate of the electorate. The people cannot be charged with the presumption of full knowledge of the life and character of each and every probable appointee of the elective official ahead of the latter's actual reelection.

Moreover, the unwarranted expansion of the Pascual doctrine would set a dangerous precedent as it would, as respondents posit, provide civil servants, particularly local government employees, with blanket immunity from administrative liability that would spawn and breed abuse in the bureaucracy.

Asserting want of conspiracy, petitioners implore this Court to sift through the evidence and re-assess the factual findings. This the Court cannot do, for being improper and immaterial.

Under Rule 45 of the Rules of Court, only questions of law may be raised, since the Court is not a trier of facts.[34] As a rule, the Court is not to review evidence on record and assess the probative weight thereof. In the present case, the appellate court affirmed the factual findings of the Office of the Ombudsman, which rendered the factual questions beyond the province of the Court.

Moreover, as correctly observed by respondents, the lack of conspiracy cannot be appreciated in favor of petitioners who were found guilty of simple neglect of duty, for if they conspired to act negligently, their infraction becomes intentional.[35] There can hardly be conspiracy to commit negligence.[36]

Simple neglect of duty is defined as the failure to give proper attention to a task expected from an employee resulting from either carelessness or indifference.[37] In the present case, petitioners fell short of the reasonable diligence required of them, for failing to exercise due care and prudence in ascertaining the legal requirements and fiscal soundness of the projects before stamping their imprimatur and giving their advice to their superior.

The appellate court correctly ruled that as municipal legal officer, petitioner Salumbides "failed to uphold the law and provide a sound legal assistance and support to the mayor in carrying out the delivery of basic services and provisions of adequate facilities when he advised [the mayor] to proceed with the construction of the subject projects without prior competitive bidding." [38] As pointed out by the Office of the Solicitor General, to absolve Salumbides is tantamount to allowing with impunity the giving of erroneous or illegal advice, when by law he is precisely tasked to advise the mayor on "matters related to upholding the rule of law." [39] Indeed, a legal officer who renders a legal opinion on a course of action without any legal basis becomes no different from a lay person who may approve the same because it appears justified.

As regards petitioner Glenda, the appellate court held that the improper use of government funds upon the direction of the mayor and prior advice by the municipal legal officer did not relieve her of liability for willingly cooperating rather than registering her written objection [40] as municipal budget officer.

Aside from the lack of competitive bidding, the appellate court, pointing to the improper itemization of the expense, held that the funding for the projects should have been taken from the "capital outlays" that refer to the appropriations for the purchase of goods and services, the benefits of which extend beyond the fiscal year and

which add to the assets of the local government unit. It added that current operating expenditures like MOOE/RMF refer to appropriations for the purchase of goods and services for the conduct of normal local government operations within the fiscal year.[41]

In *Office of the Ombudsman v. Tongson*,[42] the Court reminded the therein respondents, who were guilty of simple neglect of duty, that government funds must be disbursed only upon compliance with the requirements provided by law and pertinent rules.

Simple neglect of duty is classified as a less grave offense punishable by suspension without pay for one month and one day to six months. Finding no alleged or established circumstance to warrant the imposition of the maximum penalty of six months, the Court finds the imposition of suspension without pay for three months justified.

When a public officer takes an oath of office, he or she binds himself or herself to faithfully perform the duties of the office and use reasonable skill and diligence, and to act primarily for the benefit of the public. Thus, in the discharge of duties, a public officer is to use that prudence, caution, and attention which careful persons use in the management of their affairs.[43]

Public service requires integrity and discipline. For this reason, public servants must exhibit at all times the highest sense of honesty and dedication to duty. By the very nature of their duties and responsibilities, public officers and employees must faithfully adhere to hold sacred and render inviolate the constitutional principle that a public office is a public trust; and must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[44]

WHEREFORE, the assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 96889 are AFFIRMED with MODIFICATION, in that petitioners, Vicente Salumbides, Jr. and Glenda Araña, are suspended from office for three (3) months without pay.

SO ORDERED.

Puno, C.J., Carpio, Corona, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

[1] Seventh Division then composed of Justice Remedios A. Salazar-Fernando, chairperson and ponente, and Justices Rosalinda Asuncion-Vicente and Enrico A. Lanzanas as members.

[2] TMHS was being subsidized by the municipal government of Tagkawayan as it had not yet been included in the regular budget of the Department of Education.

[3] Rollo, pp. 248-249.

[4] Counter Affidavit, id. at 238.

[5] Id. at 243.

[6] The criminal aspect of the case docketed as Case No. OMB-L-C-02-0426-E deals with violations of paragraphs (a), (e), (g) and (i) of Section 3 of Republic Act No. 3019 (1960) or the Anti-Graft and Corrupt Practices Act; paragraph (c) of Sections 366 and 369, paragraph (d) of Sections 534, 355 and 356 of Republic Act No. 7160 (1991) or the Local Government Code; and Article 220 of the Revised Penal Code.

[7] Upon the recommendation of Graft Investigator and Prosecution Officer I (GIPO) Ma. Theresa D. Wu, the

Office of the Ombudsman modified the earlier recommendation of GIPO Mary Ayn T. Punzalan to absolve Glenda and reprimand Salumbides.

[8] Vide rollo, p. 53.

[9] *Negros Oriental Planters Association, Inc. (NOPA) v. Presiding Judge of RTC-Negros Occidental*, Br. 52, Bacolod City, G.R. No. 179878, December 24, 2008, 575 SCRA 575, 583-584.

[10] Rollo, p. 24.

[11] *Id.* at 277.

[12] *Id.* at 154-155.

[13] Vide Rules of Court, Rule 45, Sec. 4. Petitioners offer the following assignment of errors:

1. It was error for the Honorable Court of Appeals to deny the petitioners the benefit of the case of *Arturo B. Pascual v. Prov. Board of Nueva Ecija*;
2. It was error on the Honorable Court of Appeals when it ruled that the petitioners including Mayor Vicente E. Salumbides III were all guilty of conspiracy; [and]
3. It was error on the part of the Honorable Court of Appeals when it affirmed the ruling of the Honorable Ombudsman finding petitioners guilty of simple neglect of duty[,] for which they [were] meted the penalty of suspension from office of a maximum period of six (6) months. (*italics supplied*) Rollo, pp. 173-174.

[14] Vide rollo, 184-185.

[15] Compare *supra* notes 8 and 14.

[16] *Conducto v. Monzon*, A.M. No. MTJ-98-1147, July 2, 1998, 291 SCRA 619, 634 even declared that no ruling to the contrary had even rippled this doctrine.

[17] 106 Phil. 406 (1959).

[18] *Id.* at 471.

[19] *Id.* at 472.

[20] 123 Phil. 916 (1966).

[21] *Id.* at 919.

[22] 129 Phil. 553 (1967).

[23] *Id.* at 556. It was held that "a crime is a public wrong more atrocious in character than mere misfeasance or malfeasance committed by a public officer in the discharge of his duties, and is injurious not only to a person or group of persons but to the State as a whole. This must be the reason why Article 89 of the Revised Penal Code, which enumerates the grounds for extinction of criminal liability, does not include reelection to office as one of them, at least insofar as a public officer is concerned. Also, under our Constitution, it is only the President who may grant the pardon of a criminal offense."

[24] 138 Phil. 546 (1969). Aside from the lack of distinction as to time of commission under the Anti-Graft and Corrupt Practices Act, the Court pointed out that one of the imposable penalties was perpetual disqualification from public office, which extends beyond a particular term of office. It remarked that an official may amass wealth through graft and corrupt practices and thereafter use the same to purchase reelection and thereby launder

his evil acts. The Court further ruled that the suspension under said statute is not self-operative as it needs to be ordered by the court in which the criminal case is filed.

[25] 156 Phil. 137 (1974). It was held that since the criminal prosecution is not abated by the fact of reelection, the pendency of a criminal case under a valid Information under the Anti-Graft and Corrupt Practices Act supplies the legal basis for the suspension from office in the subsequent term in the event of reelection. It added, however, that the suspension order issued during one term does not automatically apply or extend to the new term to which the suspended official had been reelected, in which case the trial court needs to issue anew a supplemental order of suspension.

[26] G.R. No. 94115, August 21, 1992, 212 SCRA 768.

[27] Vide *Office of the Ombudsman v. Evangelista*, G.R. No. 177211, March 13, 2009, 581 SCRA 350, 361; *Trillanes IV v. Pimentel, Sr.*, G.R. No. 179817, June 27, 2008, 556 SCRA 471, 488; *Cabrera v. Marcelo*, G.R. Nos. 157419-20, December 13, 2004, 446 SCRA 207, 216-217; *People v. Judge Toledano*, 387 Phil. 957, 964 (2000); *People v. Jalosjos*, 381 Phil. 690, 702-703 (2000).

[28] 326 Phil. 847 (1996). Citing sound public policy, the Court added that to rule otherwise would open the floodgates to exacerbating endless partisan contests between the reelected official and his political enemies, who may not stop to hound the former during his new term with administrative cases for acts allegedly committed during his prior term, such that his second term may thus be devoted to defending himself in those cases to the detriment of public service.

[29] 372 Phil. 892 (1999). The Court stated that there is the presumption that the people voted for an official with knowledge of his character, precisely to eliminate the need to determine in factual terms the extent of this knowledge, which is an obviously impossible undertaking.

[30] G.R. No. 168766, May 22, 2008, 554 SCRA 160.

[31] *Id.* at 179-180.

[32] G.R. No. 189698, February 22, 2010.

[33] *Id.*, citing *People v. Cayat*, 68 Phil. 12, 18 (1939). The test has four requisites: (1) the classification rests on substantial distinctions; (2) it is germane to the purposes of the law; (3) it is not limited to existing conditions only; and (4) it applies equally to all members of the same class.

[34] *Office of the Ombudsman v. Lazaro-Baldazo*, G.R. No. 170815, February 2, 2007, 514 SCRA 141.

[35] Compare with gross neglect of duty (*vide Hao v. Andres*, A.M. No. P-07-2384, June 18, 2008, 555 SCRA 8). In *Civil Service Commission v. Rabang*, (G.R. No. 167763, March 14, 2008, 548 SCRA 540, 547), gross neglect of duty or gross negligence refers to "negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences, insofar as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to give to their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable." In *Report on the Alleged Spurious Bailbonds and Release Orders Issued by the RTC, Br. 27, Sta. Cruz, Laguna*, A.M. No. 04-6-332-RTC, April 5, 2006, 486 SCRA 500, 518, the Court ruled that "[n]eglect of duty is the failure of an employee to give one's attention to a task expected of him. Gross neglect, on the other hand, is such neglect from the gravity of the case, or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare. The term does not necessarily include willful neglect or intentional official wrongdoing."

[36] Vide *U.S. v. Mitlof* [165 F. Supp. 2d 558 (Dist. Court, S.D.N.Y. 2001)] observes that US federal courts have dismissed as a logical impossibility the idea that one can conspire to act unintentionally; *Sackman v. Liggett Group Inc.*, 965 F. Supp. 391, 394 (Dist. Court E.D.N.Y. 1997) states that there can be no conspiracy to be negligent- that is, to intend to act negligently; *Sonnenreich v. Philip Morris Inc.* [929 F. Supp. 416, 419 (S.D. Fla. 1996)] recognizes that a conspiracy to commit negligence is a non sequitur; *Rogers v. Furlow* [699 F. Supp. 672, 675 (N.D. Ill. 1988)] declares that a conspiracy to commit negligence is a paradox at best.

[37] *Galero v. Court of Appeals*, G.R. No. 151121, July 21, 2008, 559 SCRA 11.

[38] *Rollo*, p. 66.

[39] REPUBLIC ACT NO. 7610, Sec. 481(b)(4).

[40] REPUBLIC ACT NO. 7160, Sec. 342. Liability for Acts Done Upon Direction of Superior Officer, or Upon Participation of Other Department Heads or Officers of Equivalent Rank. - Unless he registers his objection in writing, the local treasurer, accountant, budget officer, or other accountable officer shall not be relieved of liability for illegal or improper use or application or deposit of government funds or property by reason of his having acted upon the direction of a superior officer, elective or appointive, or upon participation of other department heads or officers of equivalent rank. The superior officer directing, or the department head participating in such illegal or improper use or application or deposit of government funds or property, shall be jointly and severally liable with the local treasurer, accountant, budget officer, or other accountable officer for the sum or property so illegally or improperly used, applied or deposited. (underscoring supplied); cf. *Frias, Sr. v. People*, G.R. No. 171437, October 4, 2007, 534 SCRA 654, as applied in criminal cases.

[41] *Rollo*, p. 67, citing Republic Act No. 7160, Sec. 306 (d) & (f).

[42] G.R. No. 169029, August 22, 2006, 499 SCRA 567.

[43] Vide *Farolan v. Solmac Marketing Corporation*, G.R. No. 83589, March 13, 1991, 195 SCRA 168, 177-178.

[44] *Galero v. Court of Appeals*, *supra* at 24.

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