

HERNANDO C. LAYNO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.

G.R. No. 93842. September 07, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision* of the Sandiganbayan in Criminal Case No. 12955, dated 15 June 1990, finding the petitioner guilty beyond reasonable doubt of the crime of falsification of public document defined in Article 171, paragraph 4 of the Revised Penal Code.

Briefly, the facts as found by the Sandiganbayan are as follows:

The petitioner was the incumbent municipal mayor of Lianga, Surigao del Sur, on 16 March 1980, having been elected to that position in the elections held in that year. As chief executive of the municipality, he had the authority to appoint employees in the municipal government of Lianga.

On 16 March 1980, the petitioner appointed Fernando Y. Layno, his legitimate son, meat inspector in the office of the municipal treasurer of Lianga. He signed the appointment document -- Civil Service Form No. 35 -- twice, first as the appointing authority and second, as the personnel officer, certifying "(t)hat all the required supporting papers pursuant to MC 5, s. 1974, as amended, have been complied with, reviewed and found to be in order."

Among the supporting papers required for the appointment is the Certification (Exh. "B") signed by the petitioner, reading as follows:

"In connection with the appointment of MR. FERNANDO Y. LAYNO, Lianga, Surigao del Sur, in the Office of Municipal Treasurer, Lianga, Surigao del Sur at the rate of FOUR THOUSAND SIX HUNDRED THIRTY TWO PESOS ONLY per annum (P4,632.00), effective March 16, 1980. I HEREBY CERTIFY THAT:

"1. He is not related to me to (sic) any person exercising immediate supervision over him within the third degree of either consanguinity or affinity."

On the same day, i.e., 16 March 1980, Fernando Y. Layno took his oath of office with the petitioner as the administering officer.

Thereafter, the appointment paper, together with the required supporting documents, was forwarded to the Davao Regional Office of the Civil Service Commission and was received by the said office on 17 May 1980. On 20 May 1980, the OIC, Jorge Mindanao, acting by authority of the Commission, approved the appointment of Fernando Y. Layno. Three (3) days later, the approved appointment was returned to the office of the petitioner.

The appointee, however, neither assumed the position to which he was appointed nor collected the salary corresponding to it.[1]

On 28 September 1988, petitioner was charged before the Sandiganbayan with the crime of falsification of public document defined in Article 171, paragraph 4 of the Revised Penal Code, in an Information reading as follows:

"That on or about March 16, 1980, in the Municipality of Lianga, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the incumbent Municipal Mayor of Lianga, Surigao del Sur, taking advantage of his official position and committing the offense in relation to his duties, did then and there wilfully, unlawfully and feloniously prepare and falsify a document or certification, wherein said accused is legally bound to disclose the truth, by stating that a certain Fernando Y. Layno of Lianga, Surigao del Sur is not related to him within the third degree of either consanguinity or affinity, when in truth and in fact, as the said accused well knew, said Fernando Y. Layno is his son, thus, making untruthful statements in a narration of facts, to the damage of the public interests.

"Contrary to law."[2]

When arraigned, petitioner assisted by counsel de parte pleaded not guilty.[3]

At the pre-trial held on 9 February 1989, the petitioner admitted that: (1) he was the duly elected mayor of Lianga, Surigao del Sur, on the date alleged in the information; (2) that, as mayor, he had the authority to appoint employees in the municipal government of Lianga; (3) that on 16 March 1980, he appointed Fernando Y. Layno meat inspector in the office of the municipal treasurer of Lianga, Surigao del Sur; and (4) that the appointee is his legitimate son. Upon motion of the petitioner, his admission that he appointed Fernando Y. Layno was made subject to the qualification that he later on revoked the appointment upon being advised that it was against the law on nepotism.[4]

Thereafter, trial on the merits ensued, and the prosecution as well as the defense adduced their respective evidence.

After the trial, on 15 June 1990, the Sandiganbayan as aforestated promulgated its decision[5] finding the petitioner guilty beyond reasonable doubt of the crime of falsification of public document defined and penalized in Article 171, paragraph 4 of the Revised Penal Code, the dispositive portion of which reads:

"WHEREFORE, We find the accused, HERNANDO LAYNO y DE CASTRO, GUILTY beyond reasonable doubt of the crime of falsification of public document defined in Article 171, paragraph 4, of the Revised Penal Code. There being no aggravating or mitigating circumstance and applying in his favor the Indeterminate Sentence Law, We impose upon him the indeterminate imprisonment ranging from TWO (2) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of prision correccional, as minimum, to EIGHT (8) YEARS and ONE (1) DAY of prision mayor, as maximum, and a fine of TWO THOUSAND FIVE HUNDRED PESOS (P2,500.00), Philippine currency, without subsidiary imprisonment in case of insolvency. No costs."[6]

The petitioner has interposed the present appeal, contending that:

"I. THE SANDIGANBAYAN UTTERLY FAILED TO CONSIDER THE FACTUAL AND LEGAL DEFENSES OF PETITIONER.

"II. THE PROSECUTION EVIDENCE IS GROSSLY INSUFFICIENT TO SUSTAIN A VERDICT OF CONVICTION.

"III. THE SANDIGANBAYAN FAILED TO YIELD OBEDIENCE TO THE CONSTITUTIONAL MANDATE OF PROOF BEYOND REASONABLE DOUBT."[7]

The appeal is devoid of merit.

Petitioner assails the Sandiganbayan in not giving weight nor credence to his defense that he did not sign nor issue the certification (Exh. B) in question. He claims that the lone witness for the prosecution, Amando R. Pandi, Jr., who identified his signature on the said certification is incompetent to testify on the matter because he admitted

during the trial that he never saw him (petitioner) actually signing (affixing) his signature on the questioned certification. Petitioner further claims that the said witness is biased and prejudiced and that his testimony is incredible, unreliable and undeserving of belief. He argues that Pandi did not testify voluntarily but was actually instructed by the incumbent mayor who was his (petitioner's) political opponent for the mayorship of the Municipality of Lianga in the last local election and that he (Pandi) is a relative of the incumbent vice-mayor against whom he (petitioner) has a long-standing political feud.

The petitioner's aforesaid contentions are without merit. Under Sec. 22, Rule 132 of the Revised Rules on Evidence, the handwriting of a person may be proved by any witness who "has seen writing purporting to be his upon which the witness acted or been charged, and has thus acquired knowledge of the handwriting of such person." Otherwise stated, any witness may be called who has, by sufficient means, acquired knowledge of the general character of the handwriting of the party whose signature is in question.[8]

Prosecution witness Amando R. Pandi, Jr. was competent to testify on the signature of petitioner on the certification, Exhibit "B" because in the course of his employment as municipal secretary and designated personnel officer in the municipal government of Lianga, Surigao del Sur, he had seen records under his charge bearing the long and short signatures of the petitioner, and, as such, he had acquired knowledge of the general character of the handwriting of the petitioner. As aptly observed by the Sandiganbayan:

"x x x. Pandi has seen in the course of his employment in the Municipal Government of Lianga as Municipal Secretary since July 15, 1988, and as designated Personnel Officer from February 1, 1989, appointment records of municipal employees and old resolutions of the Municipal Council bearing the full and abbreviated signatures of the accused as Municipal Mayor. For this reason, he became familiar with those signatures. He could therefore identify and did identify the full signature on the Certification, Exhibit "B", to be that of the accused." [9]

Moreover, the Sandiganbayan's conclusion that the signature on the certification in question is the signature of the petitioner was not only based on the testimony of Amando R. Pandi, Jr. Section 22, Rule 132 of the Revised Rules on Evidence further provides that "(e)vidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge." Pursuant thereto, the Sandiganbayan compared the signature on the certification with the signatures of the petitioner on documents filed with the court, and which were proved to be genuine. Thus, the Sandiganbayan held:

"The record of this case contains documents bearing signatures of the accused which have been proved to be genuine or treated by him to be so. We refer, among many others, to two full signatures undisputably affixed by the accused on the appointment paper, Exhibit A, on March 16, 1980, the day when the questioned signature was made. There is no doubt that these two signatures strikingly resemble that on Exhibit B not only in general appearance but also in the manner the illegible letters were formed. Even the accused himself reluctantly admitted that the challenged signature 'really looks like my signature and is almost the same'." [10]

After making the comparison, the Sandiganbayan was satisfied and convinced that the signature on the certification Exhibit B is truly the signature of the petitioner. The Court finds no ground or reason for disturbing such finding or conclusion.

On the question of credibility of the witness for the prosecution Amando R. Pandi, Jr., it would suffice to state that "the rule consistently adhered to by this Court is to give due respect to the finding of the trial court on the matter, the latter tribunal having had the opportunity to observe the demeanor and conduct of witnesses while testifying and, therefore, is in a better position to properly gauge their credibility. Thus, appellate tribunals will not disturb the findings of fact of the trial court unless there is proof that said court, in making the findings, had

failed to appreciate some fact or circumstance of weight and substance that would have altered the results of the case." [11] Upon review of the records, the Court finds no reason to reject the findings and conclusions of the Sandiganbayan.

Petitioner also assails the Sandiganbayan in disregarding his defense that he had no obligation to disclose the truth about his relationship with the appointee -- his son Fernando Y. Layno. He argues that there is nothing in Section 49 (a) of P.D. No. 807 [12] which makes it a legal obligation of the appointing public official to disclose his true relationship with the appointee in the form of a certification. He further argues that the law contemplated under Article 171, paragraph 4 of the Revised Penal Code is not a prohibitory but a mandatory law, that is, a law which requires the revelation of any relationship, either by blood or affinity, between the appointing public official and the appointee.

Again, the petitioner's aforesaid contention is devoid of merit.

In one case, [13] the defendant-appellee therein was charged with falsification of a public document by misrepresenting to the representative of the City Treasurer of Cebu that his name was Antonio Perez, that his place of birth was Jaro, Leyte and that his citizenship was Filipino, and by means of such misrepresentation, said representative of the City Treasurer of Cebu was made to issue and write, and in fact did issue and write on the corresponding lines of residence certificate No. A-1618529 the name of Antonio Perez, as the name of the taxpayer, Jaro, Leyte, as his place of birth, and Filipino as his citizenship, thus causing it to appear that said residence certificate No. A-1618529 dated 7 January 1952, was issued to one Antonio Perez with place of birth at Jaro, Leyte, and his citizenship as Filipino, when in truth and in fact, as the accused well knew, his true name was Po Giok To, his place birth was Amoy, China, and his citizenship was Chinese. The accused moved to quash the information on the ground that it did not allege that he (the accused) had the obligation to disclose the truth in the document allegedly falsified. The trial court quashed the information. The prosecution appealed to this Court. In resolving the appeal and reversing the trial court's judgment, this Court held:

"x x x, the obligation on the part of the accused to disclose the truth as to the facts that should appear in a residence certificate, is inherent in the very nature and purpose of said document. Section 3 of Commonwealth, Act 465 (otherwise known as the Residence Tax Law) provides 'that the residence certificate for persons shall contain the full name, place and date of birth, citizenship, civil status, length of residence in the Philippines, length of residence in the city or municipality where the certificate is issued, occupation or calling', all of which facts are required to appear therein for the purpose of establishing the true and correct identity of the person to whom the certificate is issued. Needless to say, this provision implies that the person to whom the certificate is issued must state to the officer who issues the same, the true facts, required to appear therein, the latter having merely the ministerial function of recording thereon the facts supplied by this person. And to guarantee that the facts given correctly and truly identify the holder of the certificate, he is also required by Sec. 3, supra, to sign the document and affix his right hand thumbmark thereon. There is, therefore, no question that the accused had the duty to disclose the true facts about his name, place of birth, and citizenship to the officer or employee who issued his residence certificate No. A-1618529; and such duty being inherent in the transaction, there was no need for the criminal charge to allege that the accused had such duty."

In another case, [14] the defendant-appellant who was born a citizen of the Philippines married one Kho Cheng, a Chinese citizen, on 6 January 1936. As a consequence of said marriage, she acquired the citizenship of her husband, for which reason, she was registered as an alien in the Bureau of Immigration. Sometime in 1951, she purchased a parcel of residential land from the San Francisco del Monte, Inc., as evidenced by a deed of sale which appeared to have been acknowledged by appellant and Cipriano B. Castro, Vice-President of the San Francisco del Monte, Inc. in the City of Manila before a notary public. The deed of sale stated inter alia that appellant was a widow and a Filipino citizen, she having represented to the clerk who typed the deed that she was

a widow. The truth however was that her husband was then alive and that, at the time the deed of sale was executed, she was a registered alien. The deed of sale was subsequently registered with the Register of Deeds of Quezon City, after which appellant was issued Transfer Certificate of Title No. 15975 covering the lot subject of the sale.

After an investigation conducted by an agent of the Anti-Dummy Board, an information was filed with the court a quo charging the appellant with the offense of falsification of public document. The trial court found the appellant guilty as charged. Appellant appealed to the Court of Appeals. In sustaining her conviction, the appellate court held:

"x x x. In this connection, it is to be noted that alienage modifies or limits a person's capacity to act (Art. 39, new Civil Code). For instance, Section 5, Article XIII of the Constitution prohibits aliens from acquiring agricultural land. There is, therefore, no merit in the argument that appellant did not have a legal obligation to disclose her true citizenship, for, had she revealed the truth in the deed of sale, the same would have been a patent nullity, being in violation of the constitutional mandate referred to above, and it would have never have been registered with the Register of Deeds of Quezon City. That the integrity of the document Exhibit C was thus affected by appellant's false statement regarding her citizenship cannot be doubted."

"Furthermore, Section 54 of Act No. 496 explicitly requires that 'Every deed or voluntary instrument presented for registration shall contain or have indorsed upon it the full name, nationality, place of residence, and post-office address of the grantee or other persons acquiring or claiming such interest under such instrument, and every such instrument shall also state whether the grantee is married or unmarried, and, if married, give the name in full of the husband or wife.' Now, it being undeniable that deed of sale, Exhibit C, was intended to be -- as it was a fact -- registered with the corresponding Register of Deeds, and considering that in transactions affecting registered land, such as the one in question, the registration of the deed of conveyance is the operative act by which title is fully conveyed to the grantee as against all parties, which was paramount in her mind to precisely achieve her ultimate purpose, appellant could not validly claim that she was not legally obliged to reveal her civil status and citizenship in the deed Exhibit C. Otherwise, the deed could not have been registered and a new title would not have been issued in her favor."

The law on nepotism, as provided in Section 49(a) of PD No. 807, prohibits the appointing or recommending authority from making any appointment in the national, provincial, city or municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, in favor of his (appointing or recommending authority's) relative within the third degree of consanguinity or affinity.[15] Thus, in order to guarantee that the law is duly observed, it is required, among others, that the appointment paper should be accompanied by a certification of the appointing or recommending authority stating therein that he is not related to the appointee within the third degree of consanguinity or affinity. Although Section 49(a) of PD No. 807 does not explicitly provide that the appointing or recommending authority shall disclose his true relationship with the appointee in the form of a certification, nonetheless, in the light of the rulings in the aforecited cases, the legal obligation of the appointing or recommending authority to state the true facts required to be stated in the certification is inherent in the law on prohibition against nepotism and the nature and purpose of such certification.

In the case at bar, since the petitioner was the appointing authority when he made the appointment in favor of his son, Fernando T. Layno, as meat inspector in the office of the municipal treasurer of Lianga, Surigao del Sur, he had the legal obligation to disclose in the certification his true relationship with the appointee. As aptly observed by the Solicitor General in his Memorandum --

"The general purpose of PD No. 807 is to 'insure and promote the constitutional mandate that appointments in the Civil Service shall be made only according to merit and fitness, to provide within the public service a

progressive system of personnel administration, and to adopt measures to promote moral and the highest degree of responsibility, integrity, loyalty, efficiency, and professionalism in the Civil Service." (Section 2, PD No. 807)

"The civil service laws are designed to eradicate the system of appointment to public office based on political considerations and to eliminate as far as practicable the element of partisanship and personal favoritism in making appointments. These laws intend to establish a merit system of fitness and efficiency as the basis of the appointment: to secure more competent employees, and thereby promote better government. (Meran vs. Edralin, 154 SCRA 238 [1987])

"Indeed, there are many cases wherein local elective officials, upon assumption to office, wield their new-found power by appointing their own proteges, and even relatives, in violation of civil service laws and regulations. Victory at the polls should not be taken as authority for the commission of such illegal acts. (Mendoza vs. Quisumbing, G.R. No. 78053, June 4, 1990, citing Nemenzo vs. Sabillano, 25 SCRA 1 [1968])

"Clearly, the provision on nepotism under Section 49 of PD No. 807 was incorporated to prevent the nefarious practice of appointing or recommending relatives within the third civil degree of consanguinity or affinity. And to insure that the provision on nepotism is duly observed, the appointing authority issues a certification that the appointee is not related to him within the third civil degree of consanguinity or affinity. Otherwise, the very purpose of the prohibition would be put to naught.

"Prosecution witness Pandi testified that the certification is one of the documents required by the Civil Service Commission to be attached to the appointment paper and without said certification, the appointment will not be acted upon. He also testified that he knows of no appointment which has been approved by the Civil Service Commission without the certification. (TSN, April 26, 1989, pp. 7-8)

"Even the petitioner admitted, on cross examination by the public prosecutor, that in all the years he was the Mayor of Lianga and during which time he had been issuing appointments, he signed certifications similar to the certification (Exhibit "B") he issued to his son. (TSN, August 21, 1988, pp. 22-23)

"Plainly, petitioner, as the officer authorized to issue the certification, has the legal obligation to disclose the truth as to the facts that should appear in the certification, it being inherent in the purpose of the document and in the very nature of the prohibition.

x x x x x x x x

"Had petitioner, therefore, truthfully declared that the appointee was his son, the appointment would have been disapproved by the Civil Service Commission and he would have been prosecuted, as in fact he was in another case, for violation of the law on nepotism." [16]

Petitioner assails the Sandiganbayan in not taking into consideration his defense of lack of criminal intent to commit the crime, as evidenced by his withdrawal of the appointment followed by his order to the municipal treasurer not to honor the appointment of his son and not to allow him to report for work, and that he made the appointment through oversight and ignorance of the law on nepotism. In other words, he contends that he acted in good faith when he made the appointment in favor of his son.

This Court has indeed ruled that good faith is a valid defense in a charge of falsification of public documents by making untruthful statements in a narration of facts.[17] In the present case, however, the petitioner's claim of good faith is unavailing as it is inconsistent with his very defense that he did not sign nor issue the certification in question. As held by the Sandiganbayan --

"The plea cannot be accepted. He expressly admitted that Fernando Y. Layno was his legitimate son. Nevertheless, he deliberately disregarded that fact, brazenly certifying that he was not related to him within the

third degree of consanguinity. The perversion was designed to conceal his father-son relationship from the Civil Service Commission and thereby deceived it, as it was in fact deceived, in approving the appointment he extended to him. The criminal intent is not only obvious, but is also presumed, from the untruthful narration of fact. The crime of falsification having already been committed; no acts showing subsequent repentance and abandonment of purpose, even if true, can relieve the accused of his penal liability." [18] (emphasis supplied)

Finally, the petitioner contends that the Sandiganbayan failed to yield obedience to the constitutional mandate that guilt must be proven by proof beyond reasonable doubt, claiming that the evidence for the prosecution is grossly insufficient to sustain his conviction.

In *Syquian vs. The People of the Philippines*, [19] this Court held that:

"The offense of falsification by a public officer under Article 171 of the Revised Penal Code is committed by 'any public officer, employee or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts: x x x 4. Making untruthful statements in a narration of fact; x x x.' It is settled that in this fourth kind of falsification, the following requisites must concur:

- (a) That the offender makes in a document untruthful statements in a narration of facts;
- (b) That he has a legal obligation to disclose the truth of the facts narrated by him; and
- (c) That the facts narrated by the offender are absolutely false (*Cabigas v. People*, G.R. No. 67472, July 3, 1987, 152 SCRA 18.)"

After a thorough review of the records, the Court finds that all the elements of the crime of falsification of public document under Article 171, par. 4, of the Revised Penal Code are present in the case at bar.

The petitioner was a public officer [20] being then the incumbent mayor of the Municipality of Lianga, Surigao del Sur, when he issued on 16 March 1980 the appointment in favor of Fernando Y. Layno as a meat inspector in the office of the municipal treasurer of Lianga. In connection with the said appointment, the petitioner taking advantage of his official position, [21] issued the certification (Exh. B) [22] -- a public document -- stating therein that he is not related to the appointee within the third degree of consanguinity or affinity; but, as previously discussed, he had the legal obligation to disclose his true relationship with the appointee. The facts narrated by the petitioner in the said certification are absolutely false because the bare fact and naked truth is that the appointee Fernando Y. Layno is his legitimate son.

Contrary, therefore, to the petitioner's pretense, the Sandiganbayan did not commit any reversible error in finding the petitioner guilty beyond reasonable doubt of the crime of falsification by a public officer under Article 171, par. 4, of the Revised Penal Code.

WHEREFORE, the petition is DENIED and the challenged decision of the Sandiganbayan is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, and Melo, JJ., concur.

Gutierrez, Jr., Cruz, and Feliciano, JJ., on official leave.

Campos, Jr., J., took no part in the deliberations.

*Penned by Justice Jose S. Balajadia and concurred in by Justices Romeo M. Escareal and Cipriano A. Del

Rosario.

[1] Rollo, pp. 31-32

[2] Ibid, p. 22

[3] Ibid, p. 23

[4] Ibid, p. 23

[5] Ibid, p. 22

[6] Ibid, p. 45

[7] Rollo, p. 55

[8] Martin, Comments on the Rules of Court, Vol, 5. p. 586, citing 3 Jones on Evidence, p. 2358

[9] Rollo, p. 35

[10] Ibid, p. 36

[11] People vs. Yap, L-28664, 22 December 1971, 42 SCRA 567, 574

[12] Section 47(a) of PD No. 807 provides as follows:

"All appointments in the national, provincial, city or municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are prohibited.

"As used in this Section, the word 'relative' and members of the family referred to are those related within the third degree of either consanguinity or affinity."

[13] People vs. Po Giok To, 96 Phil. 913

[14] People vs. Kho, CA-G.R. No. 03618-CR, 21 April 1964, 5 C.A. Rep. 661, penned by then Presiding, Justice Jose P. Bengzon who later became an Associate Justice of the Supreme Court

[15] Section 49(a) of PD No. 807 is mandatory, because it contains words of positive prohibition as it is couched in negative terms importing that the act required shall not be done otherwise than designated (Brehm vs. Republic, G.R. No. L-18566, 30 September 1963, 9 SCRA 172, 176

[16] Rollo, pp. 106-110

[17] Siquian vs. People of the Philippines, et al., G.R. No. 82897, 13 March 1989, 171 SCRA 223, 233, citing U.S. v. San Jose, 47 Phil. 48 (1924)

[18] Rollo, p. 44

[19] Supra

[20] A "public officer" according to Article 203 of the Revised Penal Code, is a "person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class."

[21] Abuse of public office is considered present when the offender falsifies a document in connection with the duties of his office which consist of either making or preparing or otherwise intervening in the preparation of a document (Syquian vs. People of the Philippines, supra, citing U.S. v. Inosanto, 20 Phil. 376 [1911]; People v. Santiago Uy, 101 Phil. 159 [1957]).

[22] The certification having been issued by petitioner in the exercise of the function of his office is a public document (Syquian v. People of the Philippines, supra, citing U.S. v. Asensi, 34 Phil. 765 [1915]).

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