ELENO T. REGIDOR, JR. AND CAMILO B. ZAPATOS, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND THE HONORABLE SANDIGANBAYAN (FIRST DIVISION), RESPONDENTS.

G.R. Nos. 166086-92. February 13, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition[1] for Review on Certiorari under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Sandiganbayan Decision[2] dated September 24, 2004, convicting petitioners Eleno T. Regidor, Jr. (Mayor Regidor), former City Mayor, and Camilo B. Zapatos (Zapatos), former member of the Sangguniang Panglungsod of Tangub City (petitioners), of the crime of falsification of public documents.

The Facts

Petitioners, along with Aniceto T. Siete, former Vice-Mayor, and one Marlene L. Mangao,[3] then Acting Secretary of the Sangguniang Panglungsod of Tangub City, were charged with the crime of falsification of public documents in the following Informations:[4]

> Criminal Case No. 13689 filed on May 10, 1989
>
> That on or about the 23[rd] day of June, 1988, in the City of Tangub, Philippines, and within the jurisdiction of this Honorable Court, the accused Eleno T. Regidor, Jr., Aniceto T. Siete, Camilo B. Zapatos and Marlene Mangao, all public officers being then the City Mayor, Vice Mayor and Presiding Officer of the Sangguniang Panglungsod, Temporary Presiding Officer, and Acting Sangguniang Panglungsod Secretary, respectively, of said City, and as such are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there willfully, unlawfully and feloniously falsify Resolution 50-A, of the Sangguniang Panglungsod of Tangub City, entitled: "A RESOLUTION GRANTING A SALARY INCREASE OF ALL EMPLOYEES EXCEPT CHIEFS, ASSISTANT CHIEF OF OFFICERS (sic) AND CITY OFFICIALS OF TANGUB CITY AT ONE HUNDRED PESOS (P100) A MONTH EFFECTIVE JULY 1, 1988," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by said body, to the damage and prejudice of the Government.
>
> Contrary to law.
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> Criminal Case No. 13690 filed on May 10, 1989
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> That on or about the 30[th] day [of] June, 1988, in Tangub City, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Aniceto T. Siete and Marlene L. Mangao, all public officers being the City Mayor, Vice-Mayor, and Presiding Officer of the Sangguniang Panglungsod and Acting Sangguniang Panglungsod Secretary, respectively, of the said City, and as such are authorized to attest and

approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there willfully, unlawfully and feloniously falsify Resolution No. 56, of the Sangguniang Panglungsod of Tangub, entitled: RESOLUTION APPROVING SUPPLEMENTAL BUDGET NO. 2 OF THE SANGGUNIANG PANGLUNGSOD OF TANGUB CITY FOR THE CALENDAR YEAR 1988," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by the said body, to the damage and prejudice of the government.

Contrary to law.

Criminal Case No. 13691 filed on May 10, 1989

That on or about the 30[th] day of June, 1988, in Tangub City, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Aniceto T. Siete, and Marlene L. Mangao, all public officers being the City Mayor, Vice-Mayor and Presiding Officer of the Sangguniang Panglungsod, and Acting Sangguniang Panglungsod Secretary, respectively, of said City, and as such are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there, willfully, unlawfully and feloniously falsify Resolution No. 56-A of the Sangguniang Panglungsod of Tangub entitled: "RESOLUTION APPROVING SUPPLEMENTAL BUDGET NO. 2 OF THE INFRA FUND OF TANGUB CITY FOR THE CALENDAR YEAR 1988," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by said body, to the damage and prejudice of the government.

Contrary to law.

Criminal Case No. 13692 filed on May 11, 1989

That on or about the 14[th] day of July, 1988, in Tangub City, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Aniceto T. Siete, and Marlene L. Mangao, all public officers, being the City Mayor, Vice-Mayor and Presiding Officer of the Sangguniang Panglungsod and Acting Sangguniang Panglungsod Secretary, respectively of said City, and as such, are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there willfully, unlawfully and feloniously falsify Resolution No. 63 of the Sangguniang Panglungsod of Tangub, entitled: "A RESOLUTION EARNESTLY REQUESTING HONORABLE ALFREDO BENGZON, SECRETARY, DEPARTMENT OF HEALTH, MANILA, THRU THE REGIONAL DIRECTOR, CANDIDO TAN, DEPARTMENT OF HEALTH, REGION X, CAGAYAN DE ORO CITY, TO APPOINT DR. SINFORIANA DEL CASTILLO AS CITY HEALTH OFFICER IN TANGUB CITY HEALTH OFFICE," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by said body, to the damage and prejudice of the government.

Contrary to law.

Criminal Case No. 13693 filed on May 10, 1989

That on or about the 14[th] day of July, 1988, in Tangub City, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Aniceto T. Siete and Marlene L. Mangao, all public officers being the City Mayor, Vice-Mayor and Presiding Officer of the Sangguniang Panglungsod and Acting

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Sangguniang Panglungsod Secretary, respectively, of said City, and as such, are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there willfully, unlawfully and feloniously falsify Resolution No. 61 of the Sangguniang Panglungsod of Tangub, entitled: "A RESOLUTION REVERTING THE AMOUNT OF ONE HUNDRED THOUSAND PESOS (P100,000) FROM THE CONSTRUCTION OF SPORT CENTER TO COVER UP DEFICIENCIES OF APPROPRIATION IN THE INFRASTRUCTURE FUND," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by the said body, to the damage and prejudice of the government.

Contrary to law.

Criminal Case No. 13694 filed on May 10, 1989

That on or about the 21[st] day of July, 1988, in the City of Tangub, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Camilo B. Zapatos and Marlene Mangao, all public officers being the City Mayor, Temporary Presiding Officer of the Sangguniang Panglungsod and Acting Sangguniang Panglungsod Secretary, respectively, and as such, are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged on relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there willfully, unlawfully and feloniously falsify Resolution No. 64, of the Sangguniang Panglungsod entitled: "A RESOLUTION ADOPTING A POSITION PAPER REGARDING THE CONTINUED EXISTENCE AND OPERATION OF TANGUB CITY AND REQUESTING HONORABLE LOURDES R. QUISUMBING FOR A RECONSIDERATION OF HER MEMORANDA," by then and there making it appear that the aforesaid resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by the said body, to the damage and prejudice of the government.

Contrary to law.

Criminal Case No. 13695 filed on May 11, 1989

That on or about the 21[st] day of July, 1988, in Tangub City, Philippines, and within the jurisdiction of this Honorable Court, accused Eleno T. Regidor, Jr., Camilo B. Zapatos and Marlene L. Mangao, all being public officers being City Mayor, Sangguniang Panlalawigan Member and concurrently Temporary Presiding Officer and Sangguniang Panlalawigan Secretary, respectively, of said City and as such, are authorized to attest and approve resolutions of the Sangguniang Panglungsod, and committing the crime herein charged in relation to their office, with grave abuse of confidence and taking advantage of their official/public positions, conspiring and confabulating with one another, did then and there, willfully, unlawfully and feloniously falsify Resolution No. 68, of the Sangguniang Panglungsod of Tangub, entitled: "RESOLUTION REQUESTING THE HONORABLE SECRETARY, DEPARTMENT OF BUDGET AND MANAGEMENT, MALACANANG, MANILA FOR AUTHORITY TO PURCHASE TEN (10) UNITS OF MOTORCAB, ONE (1) DOZEN MICROSCOPE COMPOUND, ONE (1) SET ENCYCLOPEDIA TEXTBOOKS, ONE (1) SET BRITANICA DICTIONARY, SEVEN (7) UNITS ELECTRIC TYPEWRITER (20" CARRIAGE), ONE (1) UNIT ELECTRIC FAN AND ONE (1) UNIT LOMBARDINI DIESEL ENGINE 4ID 820 FOR USE OF VARIOUS OFFICES OF TANGUB CITY," by then and there making it appear that the aforesaid Resolution was deliberated upon, passed and approved by the Sangguniang Panglungsod when in truth and in fact as accused well knew it was never taken up by the said body, to the damage and prejudice of the government.

Contrary to law.

Upon their arraignment on July 8, 1991, petitioners entered a plea of not guilty to all the charges. Marlene L.

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Mangao was not arraigned as the Sandiganbayan did not acquire jurisdiction over her person. Hence, an order for her arrest was issued which remains unserved up to the present. On the other hand, Aniceto T. Siete passed away on March 12, 1991 before he could be arraigned.[5] Upon agreement of the parties, no pre-trial conference was conducted. Thereafter, trial on the merits ensued. In the course of trial, two varying versions arose and, as found by the Sandiganbayan, are culled as follows:

> Evidence for the Prosecution
>
> The accused are all public officers in the City Government of Tangub City. Accused Eleno T. Regidor, Jr. was then the incumbent Mayor who assumed office on May 5, 1988, while accused Aniceto T. Siete as the incumbent Vice-Mayor and Presiding Officer of the Sangguniang Panglungsod. Accused Camilo B. Zapatos was the Acting Presiding Officer of the Sangguniang Panglungsod, while accused Marlene L. Mangao, who was a clerk in the Office of the Mayor, was designated as Acting Secretary of the City Council during the period corresponding to the alleged commission of the crimes charged against the accused.
>
> When accused Eleno T. Regidor, Jr. assumed the mayoral post on May 5, 1988, it has been the practice that the proposals for resolutions and ordinances originated from him or his office. Often, when a proposal is put in the agenda of the Sangguniang Panglungsod, a prepared resolution is already available so that it will be easier for the City Council to just accept or adopt the resolutions.
>
> During the session of the Sangguniang Panglungsod on July 27, 1988, the Council was presented with the Minutes for the sessions held on June 23, 30, July 14 and 21, respectively. The minutes of said sessions reflected resolutions and ordinances allegedly taken up, deliberated and passed upon by the Sangguniang Panglungsod namely: Resolution 50-A on June 23, 1988, Resolution 56 and 56-A on June 30, Resolution No. 63 and 61 on July 14, Resolution 64 and 68 on July 21. The actual copies of the Resolutions, Appropriations and Ordinances all contained the signatures of the four (4) accused and approving the same.
>
> However, some of the Council Members questioned the validity of the said Resolutions and Ordinances. They alleged that the Resolutions and Ordinances were neither taken up, deliberated nor passed upon during the above-mentioned dates. Roberto O. [Taclob],[6] [private complainant] a former council member, testified that the questioned Resolutions were not taken up and thus could not have been deliberated nor passed upon. His testimony was corroborated by prosecution witnesses, Estrelita M. Pastrano, Elizabeth L. Duroy Albarico and Agustin L. Opay, all former members of the Sangguniang Panglungsod of Tangub City [private complainants]. Although the questioned resolutions were subsequently ratified by the Sanggunian through Resolution 94 by a vote of five (5) to four (4), with the four (4) complaining witnesses abstaining, dated October 15, 1988, the Council Members still filed a complaint with the Department of the Interior and Local Government (DILG) an administrative case against the four (4) accused for misconduct in office and neglect of duty. The councilors claim that they were prevented from [attending] the sessions of the Sanggunian for seven (7) months because the schedule of sessions was randomly changed without them being notified. Accused Mayor Eleno T. Regidor, Jr., together with the other co-accused were preventively suspended from July to September of 1989 but were subsequently not found guilty by the DILG. Despite signing an Affidavit of Desistance, thinking that the Sandiganbayan is bound by the findings of the DILG, the complainants pursued the cases against the four (4) accused. Thus, the criminal complaints filed with the Sandiganbayan were continued and trial ensued on January 8, 1992.
>
> Evidence for the Defense
>
> In his defense, Mayor Eleno T. Regidor, Jr. testified that before approving resolutions or ordinances, he consults his legal counsel to check if there are any irregularities in the resolutions and whether or not the resolutions are beneficial to the City of Tangub. He also stated that he did not attend or participate in the sessions of the City Council, asserting that, as Mayor, he did not, in any way, influence the deliberations of the Sanggunian. He stressed that the Sangguniang Panglungsod is totally independent of his office and as the

> approving officer of the Municipal Government, he relies on the certification of the Presiding Officer that the resolutions and the ordinances are valid and lawful before affixing his signature. The accused, Eleno T. Regidor, Jr. contends that he signed the questioned resolutions in good faith and with the belief that they were deliberated and passed upon.
>
> It is further contended by accused Eleno T. Regidor, Jr. that the questioned Resolutions were taken up and passed upon during the sessions. The same accused further claimed that the minutes of the sessions of the Sanggunian were inaccurate since the entire proceedings were not completely and accurately taken down by the stenographer or Council Secretary present during the meetings, thus, the deliberations on the questioned resolutions were not entirely recorded. Lastly, the same accused claimed that the complainants even admitted in their Affidavit of Desistance the inaccuracy of the minutes "x x x although the matters taken during the sessions of the Sangguniang Panglungsod wherein we were present, were discussed and deliberated upon, we are not sure whether or not said deliberations and discussions were recorded in the minutes x x x." The defense of the accused Eleno T. Regidor, Jr. is corroborated by the testimony of Rogelio Taburada,[7] [Taburada] who was then a Councilor of Tangub City.
>
> As for the other accused Sanggunian Member and Acting Presiding Officer Camilo B. Zapatos, he opted not to take the witness stand and instead adopted the evidence of his co-accused Eleno T. Regidor Jr.

The Sandiganbayan's Decision

On September 24, 2004, the Sandiganbayan held that the petitioners' defenses of good faith and lack of intent failed to cast doubt on the allegations of the prosecution. The pieces of evidence and the testimonies of the prosecution's witnesses revealed that Resolution Nos. 50-A,[8] 56,[9] 56-A,[10] 63[11] 61,[12] 64[13] and 68[14] (assailed Resolutions) established the moral certainty or degree of proof which would produce conviction in an unprejudiced mind. Thus, it disposed of this case in this wise:

> WHEREFORE, judgment is hereby rendered in the above cases as follows:
>
> - In Criminal Case No. 13689, the Court finds the accused Eleno T. Regidor, Jr. and Camilo B. Zapatos, GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, are hereby sentenced to each suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).
>
> - In Criminal Case No. 13690, the Court finds the accused Eleno T. Regidor, Jr., GUILTY beyond reasonable doubt of the crime of Falsification of Public Document was defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, is hereby sentenced to suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (P5,000.00).
>
> - In Criminal Case No. 13691, the Court finds the accused Eleno T. Regidor, Jr., GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, is hereby sentenced to suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (P5,000.00).
>
> - In Criminal Case No. 13692, the Court finds the accused Eleno T. Regidor, Jr., GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the

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Revised Penal Code and, there being no modifying circumstances, is hereby sentenced to suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) years of Prision Mayor minimum as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

- In Criminal Case No. 13693, the Court finds the accused Eleno T. Regidor, Jr., GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, is hereby sentenced to suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

- In Criminal Case No. 13694, the Court finds the accused Eleno T. Regidor, Jr. and Camilo B. Zapatos, GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, are hereby sentenced to each suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

- In Criminal Case No. 13695, the Court finds the accused Eleno T. Regidor, Jr. and Camilo B. Zapatos, GUILTY beyond reasonable doubt of the crime of Falsification of Public Document as defined in and penalized by Article 171 of the Revised Penal Code and, there being no modifying circumstances, are hereby sentenced to each suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Prision Correccional medium as the minimum penalty to EIGHT (8) YEARS of Prision Mayor minimum as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In so far as Aniceto T. Siete is concerned, who died before arraignment could be held, the case against him is hereby considered dismissed by reason of his death.

Let a Warrant of Arrest issue against Marlene L. Mangao for her immediate apprehension and in order to answer the charges leveled against her.

SO ORDERED.

The Issues

Petitioners filed their Motion for Reconsideration[15] which was, however, denied by the Sandiganbayan in its Resolution[16] dated November 26, 2004. Hence, this Petition based on the following grounds:

- THE LOWER COURT GRAVELY AND SERIOUSLY ERRED IN CONVICTING THE ACCUSED AMOUNTING TO EXCESS OR LACK OF JURISDICTION AS NO CRIME OF FALSIFICATION WAS COMMITTED BY THEM;

- THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE PETITIONERS WHEN THE EVIDENCE OF THE PROSECUTION WAS TOO WEAK TO WARRANT CONVICTION [BECAUSE] IT MISERABLY FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT;

- THE TRIAL COURT GRAVELY ERRED IN NOT GIVING WEIGHT/VALUE TO THE AFFIDAVIT OF DESISTANCE OF THE COMPLAINANTS AND THE EXONERATION BY THE DILG OF THE ADMINISTRATIVE CHARGE AGAINST THEM;

- THE RESPONDENT COURT ERRED IN NOT APPRECIATING THE TESTIMONIAL EVIDENCE OF

REGIDOR THAT HE HAS NO PARTICIPATION IN THE PREPARATION, BEING THE CITY MAYOR HIS RULE WAS ONLY TO APPROVE THE RESOLUTIONS; [AND]

- THE EVIDENCE OF THE PROSECUTION IS INCREDIBLE THAT ACCUSED TOOK ADVANTAGE OF THEIR POSITION[.] CONSPIRACY WAS NOT ESTABLISHED.[17]

Moreover, petitioners asseverate that there is no falsification in this case under Article 171, paragraph 2 of the Revised Penal Code because they did not cause it to appear that other persons participated in an act or proceeding when they did not in fact so participate. Petitioners submit that they did not feign such participation because the private complainants physically and actually participated in passing the assailed resolutions. The participation of Mayor Regidor came only after the assailed resolutions were submitted to him for approval. Likewise, there is no falsification under paragraph 7 of Article 171 because petitioners passed and approved authentic, genuine and original documents. Petitioners submit that paragraph 7 involves falsification of a non-existent document and the falsifier produces one purporting to be the original. Petitioners also opine that the DILG's dismissal[18] of the administrative complaint and the private complainants' act of executing affidavits of desistance[19] should be given weight. Intent to gain and/or bad faith were not shown by petitioners as some of the assailed resolutions do not involve money matters. Further, petitioners argue that Taburada's testimony should have been accorded more weight and credence than the testimony of private complainant Taclob. Petitioners claim that Taburada, as a former member of the Sangguniang Panglungsod, clearly testified that he was present at the time all the assailed resolutions were deliberated upon and approved,[20] while Taclob's testimony was not credible and trustworthy considering that he executed two (2) affidavits of desistance. Taburada's testimony was not at all discussed by the Sandiganbayan; hence, its decision was not supported by evidence. Most importantly, petitioners reiterate their contention that the minutes[21] were defective and inaccurate. Thus, petitioners pray that they be acquitted in the name of due process and based on the long-standing policy of the State to acquit the accused if the quantum of evidence is insufficient to convict, as in the case at bench.[22]

On the other hand, respondent People of the Philippines, through the Office of the Special Prosecutor (OSP), claims that the issues raised by the petitioners were purely questions of fact because the same would entail the review of all pieces of evidence and evaluation of the weight and probative value thereof. The OSP also claims that petitioners questioned the sufficiency of evidence presented by the prosecution which were relied upon by the Sandiganbayan. Thus, the OSP submits that the instant Petition should be denied outright for it is not the function of this Court under Rule 45 of the Rules of Civil Procedure to re-examine the pieces of evidence duly submitted by the parties. On the merits, the OSP argues that petitioners by virtue of their respective offices and functions, held positions directly connected with the proposal, deliberation, passage and approval of the assailed resolutions as found by the Sandiganbayan and as duly supported by evidence. Intent to gain and/or bad faith is inconsequential, as the law punishes the act of falsification as a violation of public faith. The OSP alleges that the petitioners deliberately attempted to and, in fact, did conceal the falsity of the documents by making it appear that the assailed resolutions were valid on their face, as the same were approved and signed by the petitioners. Moreover, the DILG ruling dismissing the administrative complaint filed against the petitioners and the affidavits of desistance executed by the private complainants were of no moment. Thus, the OSP posits that the prosecution's evidence was overwhelming and sufficient to prove the guilt of the petitioners beyond reasonable doubt of the crime of falsification defined and penalized under Article 171 of the Revised Penal Code.[23]

The ultimate issue in this case is whether petitioners are guilty beyond reasonable doubt of the crime of falsification of public documents.

Our Ruling

The instant Petition is bereft of merit.

The law in point is Article 171 of the Revised Penal Code, which clearly provides:

> Art. 171. Falsification by public officer, employee or notary or ecclesiastic 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 who, taking advantage of his official position, shall falsify a document by committing any of the following acts:
>
> - Counterfeiting or imitating any handwriting, signature or rubric;
>
> - Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
>
> - Attributing to persons who have participated in any act or proceeding statements other than those in fact made by them;
>
> - Making untruthful statements in a narration of facts;
>
> - Altering true dates;
>
> - Making any alteration or intercalation in a genuine document which changes its meaning;
>
> - Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
>
> - Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.
>
> The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.[24]

Thus, for falsification of a public document to be established, the following elements must concur: 1) that the offender is a public officer, employee, or notary public; 2) that he takes advantage of his official position; and 3) that he falsifies a document by committing any of the aforementioned acts. Likewise, in falsification of public or official documents, it is not necessary that there be present the idea of gain or the intent to injure a third person because in the falsification of a public document, what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.[25]

In this case, the petitioners are charged under Article 171, paragraphs 2 and 7 of the Revised Penal Code. Petitioners Regidor and Zapatos, as Mayor, and Member and Temporary Presiding Officer of the Sangguniang Panglungsod, respectively, made it appear that private complainants, among others, participated in the Sangguniang Panglungsod sessions when they did not in fact so participate,[26] and issued, in authenticated forms, the assailed resolutions purporting to be copies of original documents when no such originals exist.

We hold that all the elements of the offense punishable under Article 171, paragraphs 2 and 7 of the Revised Penal Code are present in this case.

First. Petitioners were public officers at the time of the commission of the offenses charged. Mayor Regidor was then Mayor of Tangub City, while Zapatos was a member of the Sangguniang Panglungsod and was a Temporary Presiding Officer thereof.

Second. The petitioners took advantage of their respective official positions because they had the duty to make or to prepare, or otherwise to intervene in the preparation of the document, or have the official custody of the document which they falsified.[27] Zapatos, as a member and, at the time, Temporary Presiding Officer of the

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Sangguniang Panglungsod, had the duty to make or prepare or intervene in the preparation of the assailed resolutions. In like manner, Mayor Regidor cannot claim that as mayor he had no participation in the making, or preparation of, nor any intervention in the assailed resolutions.

Under Section 180[28] of Batas Pambansa Blg. 337, or the Local Government Code of 1983, which was in effect at the time the crimes imputed were committed, the city mayor had the power to veto the ordinances and resolutions enacted or adopted by the Sangguniang Panglungsod. Contrary to Mayor Regidor's submission, the veto power confers authority beyond the simple mechanical act of signing an ordinance or resolution as a requisite to its enforceability. Thus, this Court held that the concurrence of a local chief executive in the enactment of an ordinance or resolution requires not only a flourish of the pen, but the application of judgment after meticulous analysis and intelligence as well.[29]

Third. While petitioners' witness, Taburada, testified that he was present during the Sangguniang's deliberations of the assailed resolutions,[30] private complainant Taclob also testified that the resolutions were not discussed and approved during the respective sessions of the Sangguniang Panglungsod.[31] The minutes of the sessions, as well, do not reflect any deliberation and/or approval by the Sangguniang Panglungsod of the assailed resolutions. Initially, when Taburada was asked if the minutes faithfully recorded all the matters deliberated upon during the sessions of the Sangguniang Panglungsod on June 23, June 30, July 14, and July 21, 1988, he readily affirmed it. But after the Sandiganbayan called for a recess when the counsel for the parties had a heated discussion, Taburada claimed that the minutes of the sessions on said dates did not contain all the matters taken up during those sessions, particularly the deliberation and approval of the assailed resolutions.[32] Yet, the resolutions were questioned by private complainants precisely because the alleged deliberation and voting thereon were not at all conducted as reflected in the minutes[33] of the Sanggunian session of July 27, 1988. On said date, after taking up other matters, the Sangguniang Panglungsod, upon motion of Taclob, went into a closed-door session. Then a nominal voting was conducted in order to determine "whether said resolutions were brought before the session for deliberation or [if] the nature of said resolutions [was] reflected in the minutes."[34] Majority of the members voted "no," while Taburada answered "no comment"[35] because he did not actually read the minutes at the time, but he nonetheless signed the same.[36] To the same question, Zapatos also answered "no comment." These material inconsistencies in Taburada's testimony, pitted against the testimonies of the private complainants and the documentary evidence, proved fatal to petitioners' cause.

It must be borne in mind that weighing heavily against the petitioners' defense is the well-settled doctrine that findings of fact of trial courts -- in this case, the Sandiganbayan -- particularly in the assessment of the credibility of witnesses, is binding upon this Court, absent any arbitrariness, abuse or palpable error.[37]

While the petitioners do not wish to impute much significance to the minutes, they are important in the resolution of this case.

In a similar case, De los Reyes v. Sandiganbayan, Third Division,[38] this Court, citing a number of cases,[39] highlighted the importance of the minutes taken in the pertinent proceeding, relying thereon to ascertain the truth when confronted by conflicting claims of parties. Hence, this Court held:

> Thus, the Court accords full recognition to the minutes as the official repository of what actually transpires in every proceeding. It has happened that the minutes may be corrected to reflect the true account of a proceeding, thus giving the Court more reason to accord them great weight for such subsequent corrections, if any, are made precisely to preserve the accuracy of the records. In light of the conflicting claims of the parties in the case at bar, the Court, without resorting to the minutes, will encounter difficulty in resolving the dispute at hand.[40]

We see no reason to deviate from this ruling.

Added to this is the Memorandum of Agreement[41] entered into by the Office of the Mayor and the Sangguniang Panglungsod on August 12, 1988, "recalling all SP resolutions not duly passed and/or approved by the majority of the members thereat." Further, the Sangguniang Panglungsod, in its Resolution No. 94[42] dated October 15, 1988, opted to re-approve the assailed resolutions "which were alleged to [have been] implemented but not discussed," rather than move for the amendment of the minutes. These acts belie petitioners' claims that the minutes were inaccurate for failing to include therein the deliberations and approval of the assailed resolutions. Indeed, if the minutes merely omitted any mention of the discussion on, and approval of, the subject resolutions, there would have been no need to resubmit them for the approval of the Sanggunian. It would have been more convenient to simply effect the correction of the minutes.

Likewise, petitioners' reliance on the affidavits of desistance executed by the private complainants fails to impress this Court. Our ruling in Balderama v. People[43] is instructive:

> A recantation or an affidavit of desistance is viewed with suspicion and reservation. The Court looks with disfavor upon retractions of testimonies previously given in court. It is settled that an affidavit of desistance made by a witness after conviction of the accused is not reliable, and deserves only scant attention. The rationale for the rule is obvious: affidavits of retraction can easily be secured from witnesses, usually through intimidation or for a monetary consideration. Recanted testimony is exceedingly unreliable. There is always the probability that it will later be repudiated. Only when there exist special circumstances in the case which when coupled with the retraction raise doubts as to the truth of the testimony or statement given, can retractions be considered and upheld.

The affidavits of desistance cannot prevail over the categorical statements of the private complainants, the very same affiants who executed the same. Moreover, based on the testimonies of the private complainants, they merely executed the affidavits of desistance after the DILG dismissed the administrative complaint and after Mayor Regidor asked them to execute the same, because they had the impression that the DILG ruling would, in one way or another, be binding on the Sandiganbayan, and they simply wanted to avoid having to spend for their fare in going to the Sandiganbayan for the trial.

This impression was likewise noted by the Sandiganbayan in its assailed Decision. The impression was so prevalent that even the petitioners themselves relied on the DILG dismissal of the administrative charge, contending that it should have been given greater weight by the Sandiganbayan, at least to create a serious and reasonable doubt to warrant their acquittal.

The petitioners' contention lacks merit.

It is a fundamental principle in the law on public officers that administrative liability is separate from and independent of criminal liability. A simple act or omission can give rise to criminal, civil or administrative liability, each independently of the others. This is known as the "threefold liability rule." Thus, absolution from a criminal charge is not a bar to an administrative prosecution, and vice-versa. In this criminal prosecution, the dismissal of the administrative cases against the petitioners will not necessarily result in the dismissal of the criminal complaints filed against them.

Based on the foregoing disquisitions, the Sandiganbayan's conviction of petitioners had ample factual mooring, after the prosecution presented both documentary and testimonial pieces of evidence. Time and again, we held that we are not a trier of facts; hence, we defer to the factual findings of the Sandiganbayan which had more opportunity and facilities to examine and evaluate the evidence presented.[44]

To repeat, settled is the rule that findings of fact of the Sandiganbayan in cases before this Court are binding and

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conclusive in the absence of a showing that they come under the established exceptions, among them: 1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; 2) the inference made is manifestly mistaken; 3) there is a grave abuse of discretion; 4) the judgment is based on misapprehension of facts; 5) said findings of fact are conclusions without citation of specific evidence on which they are based; and 6) the findings of fact of the Sandiganbayan are premised on the absence of evidence on record.[45] We found none of these exceptions in the present case. Thus, we accord respect and weight to the Sandiganbayan's findings, a portion of which aptly and judiciously states, to wit:

> Based on the foregoing, this Court finds the contentions of the accused untenable. Their defense of good faith and lack of intent has failed to cast doubt on the allegations of the prosecution. In the falsification of public or official documents, whether by public officials or by private persons, it is not that there be present the idea of gain or intent to injure a third person. Verily, the pieces of evidence reveal the specific acts of the four (4) accused in the commission of the crime of falsification. Firstly, the accused caused it to appear in a document that members of the Sangguniang Panglungsod participated in the sessions, deliberations and passed the questioned resolutions. The said resolutions reflect the attendance of all the members of the Sanggunian on the dates thereon, including their unanimous approval of the resolutions. The pieces of evidence and the testimonies of the prosecution witnesses, however, reveal otherwise. If, in truth and in fact, Resolutions 50-A, 56, 56-A, 63, 61, 64 and 68 were indeed taken up and passed upon on their respective dates, it would be contrary to human reason why the members of the Sangguniang Panglungsod who approved it unanimously, to suddenly file a case against the accused and deny the existence of a legislative act they authored. Secondly, the accused are found to have committed the act of issuing in authenticated form, a document purporting to be a copy of an original document when no such document exists. In issuing the subject Resolutions, Mayor Eleno T. Regidor, Jr., Vice-Mayor Aniceto T. Siete and SP Camilo B. Zapatos, consummated the crime of falsification by purporting them to be original copies of valid, deliberated and approved resolutions when no such documents exist and no proceedings regarding them ever took place as established by the prosecution. Their defense that the minutes of the sessions were inaccurate and did not reflect the deliberations concerning the questioned resolutions, does not convince this Court. The testimonies of complainants Roberto O. [Taclob], Estrelita M. Pastrano, Elizabeth L. Duroy and Agustin L. Opay, all former members of the City Council during the terms of the accused, must be given great weight and credence. In falsification of a public document, the falsification need not be made on an official form. It is sufficient that the document is given the appearance of, or made to appear similar to the official form.

All told, the Sandiganbayan committed no reversible error in ruling that the petitioners are guilty beyond reasonable doubt of the crime of falsification of public documents.

WHEREFORE, the instant Petition is DENIED and the Sandiganbayan Decision dated September 24, 2004 in Criminal Cases Nos. 13689, 13690, 13691, 13692, 13693, 13694 and 13695 is AFFIRMED in toto. Costs against the petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Austria-Martinez, and Chico-Nazario, JJ., concur.

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[*] Additional member in lieu of Associate Justice Diosdado M. Peralta per Special Raffle dated February 2, 2009.

[1] Rollo, pp. 3-22.

[2] Particularly docketed as Crim. Cases Nos. 13689-95, penned by Associate Justice Diosdado M. Peralta (now a member of this Court), with Associate Justices Teresita Leonardo-De Castro (now a member of this Court) and

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Roland B. Jurado, concurring; id. at 26-42.

[3] Marlene L. Mangao is still at-large. Thus, an Order of Arrest was issued by the Sandiganbayan which, however, remains to be unserved up to this day; records, p. 483.

[4] Records, unpaged. (Emphasis supplied.)

[5] Records, p. 200.

[6] Also referred to as Roberto Taclub in other pleadings and documents.

[7] Also referred to as Rogelio Taborada in other pleadings and documents.

[8] Entitled: A RESOLUTION GRANTING A SALARY INCREASE OF ALL EMPLOYEES EXCEPT THE CHIEFS, ASSISTANT CHIEFS OF OFFICES AND CITY OFFICIALS OF TANGUB CITY AT ONE HUNDRED PESOS (P100.00) A MONTH EFFECTIVE JULY 1, 1988; Exhibit "A," folder of exhibits.

[9] Entitled: A RESOLUTION APPROVING SUPPLEMENTAL BUDGET NO. 2 OF THE GENERAL FUND OF TANGUB CITY FOR THE CALENDAR YEAR 1988; Exhibit "B," folder of exhibits.

[10] Entitled: RESOLUTION APPROVING SUPPLEMENTAL BUDGET NO. 2 OF THE INFRA FUND OF TANGUB CITY FOR THE CALENDAR YEAR 1988; Exhibit "C," folder of exhibits.

[11] Entitled: A RESOLUTION EARNESTLY REQUESTING HONORABLE ALFREDO BENGZON, SECRETARY, DEPARTMENT OF HEALTH, MANILA THRU THE REGIONAL DIRECTOR CANDIDO TAN, DEPARTMENT OF HEALTH, REGION X, CAGAYAN DE ORO CITY TO APPOINT DR. SINFORIANA DEL CASTILLO AS CITY HEALTH OFFICER IN TANGUB CITY HEALTH OFFICE; Exhibit "D," folder of exhibits.

[12] Entitled: A RESOLUTION REVERTING THE AMOUNT OF ONE HUNDRED THOUSAND PESOS (P100,000.00) FROM THE CONSTRUCTION OF SPORT CENTER TO COVER UP DEFICIENCIES OF APPROPRIATION IN THE INFRASTRUCTURE FUND; Exhibit "E," folder of exhibits.

[13] Entitled: A RESOLUTION ADOPTING A POSITION PAPER REGARDING THE CONTINUED EXISTENCE AND OPERATION OF TANGUB CITY DIVISION IN TANGUB CITY AND REQUESTING HONORABLE LOURDES R. QUISUMBING FOR A RECONSIDERATION OF HER ORDER/MEMORANDA; Exhibit "F," folder of exhibits.

[14] Entitled: RESOLUTION REQUESTING THE HONORABLE SECRETARY, DEPARTMENT OF BUDGET AND MANAGEMENT, MALACAÑANG, MANILA FOR AUTHORITY TO PURCHASE TEN (10) UNITS MOTORCAB, ONE (1) DOZEN MICROSCOPE COMPOUND, ONE (1) SET ENCYCLOPEDIA TEXTBOOKS, ONE (1) SET BRITANNICA DICTIONARY, SEVEN (7) UNITS ELECTRIC TYPEWRITER (20" CARRIAGE) ONE (1) UNIT ELECTRIC FAN AND ONE (1) UNIT LOMBARDINI DIESEL ENGINE 4ID 820 FOR USE IN THE VARIOUS OFFICES OF TANGUB CITY; Exhibit "G," folder of exhibits.

[15] Rollo, pp. 43-50.

[16] Id. at 24-25.

[17] Supra note 1, at 8-9.

[18] Dated April 15, 1991; Exhibit "13," folder of exhibits.

[19] Exhibits "16," "17," folder of exhibits.

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[20] TSN, January 9, 1992, pp. 17-18.

[21] Exhibits "H," "I," "J," "K" and "L," folder of exhibits.

[22] Supra note 1; petitioners' Memorandum dated November 25, 2006, rollo, pp. 176-183.

[23] OSP's Memorandum dated November 15, 2006; id. at 193-223.

[24] Emphasis supplied.

[25] Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 345, citing Lumancas v. Uriarte, 347 SCRA 22, 33-34 (2000), further citing People v. Po Giok To, 96 Phil. 913, 918 (1955).

[26] Bernardino v. People, G.R. Nos. 170453 and 170518, October 30, 2006, 506 SCRA 237, 247-248.

[27] Giron, Jr. v. Sandiganbayan, G.R. Nos. 145357-59, August 23, 2006, 499 SCRA 594, 605.

[28] Section 180 of Batas Pambansa Blg. 337 provides:

SECTION 180. Approval of Ordinances by the Mayor; Veto Power. -- (1) All ordinances, and any resolution or motion directing the payment of money or creating liability, enacted or adopted by the sangguniang panlungsod shall be forwarded to the mayor. Within ten days after the receipt of the ordinance, resolution or motion, the mayor shall return it with his approval or veto. If he does not return it within that time, it shall be deemed approved. If he returns it with his veto, his reasons therefor in writing shall accompany it. A vetoed ordinance, if repassed by a two-thirds vote of all the members of the sangguniang panlungsod, shall take effect as provided in this Code.

(2) The mayor shall have the power to veto any particular item or items of an appropriation ordinance, or of an ordinance, resolution or motion directing the payment of money or creating liability, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner provided in the preceding section. Should an item or items in an appropriation ordinance be disapproved by the mayor, the corresponding item or items in the appropriation ordinance of the previous year shall be deemed reenacted.

[29] De los Reyes v. Sandiganbayan, Third Division, G.R. No. 121215, November 13, 1997, 281 SCRA 631, 635.

[30] TSN, January 9, 1992, pp. 17-18.

[31] TSN, March 4, 1992, p. 5.

[32] TSN, January 9, 1992, pp. 21-32.

[33] Exhibit "L," folder of exhibits.

[34] Id.

[35] TSN, January 9, 1992, pp. 36-45.

[36] TSN, January 10, 1992, pp. 9-11.

[37] Filoteo, Jr. v. Sandiganbayan, 331 Phil. 531, 580 (1996).

[38] Supra note 29.

[39] Id. at 636-637, citing, Malinao v. Reyes, 255 SCRA 616 (1996); Velarma v. Court of Appeals, 252 SCRA 406 (1996); Drilon, v. Lin, 235 SCRA 135 (1994); Pimentel v. Garchitorena, 208 SCRA 122 (1992); Dizon v.

Tizon, 22 SCRA 1317 (1968); Subido v. City of Manila, 108 Phil. 462 (1960).

[40] Id. at 638.

[41] Exhibit "18," folder of exhibits.

[42] Exhibit "14," folder of exhibits.

[43] G.R. Nos. 147578-85 and G.R. Nos. 147598-605, January 28, 2008, 542 SCRA 423, 432-433. (Citations omitted.)

[44] Atty. Rodolfo D. Pactolin v. The Honorable Fourth Division of the Sandiganbayan, G.R. No. 161455, May 20, 2008.

[45] Supra note 43, at 432, citing Gil v. People, 177 SCRA 229, 236 (1989), further citing Cesar v. Sandiganbayan, 134 SCRA 105 (1985).

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