

ROSALIO S. GALEOS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. Nos. 174730-37. February 09, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

The consolidated petitions at bar seek to reverse and set aside the Decision[1] promulgated on August 18, 2005 by the Sandiganbayan convicting petitioners Paulino S. Ong (Ong) of eight counts and Rosalio S. Galeos (Galeos) of four counts of falsification of public documents under Article 171, paragraph 4 of the Revised Penal Code, as amended.

The facts are as follows:

Ong was appointed Officer-in-Charge (OIC)-Mayor of the Municipality of Naga, Cebu on April 16, 1986. He was elected Mayor of the same municipality in 1988 and served as such until 1998.[2]

On June 1, 1994, Ong extended permanent appointments to Galeos and Federico T. Rivera (Rivera) for the positions of Construction and Maintenance Man and Plumber I, respectively, in the Office of the Municipal Engineer.[3] Prior to their permanent appointment, Galeos and Rivera were casual employees of the municipal government.

In their individual Statement of Assets, Liabilities and Net Worth (SALN) for the year 1993, Galeos answered "No" to the question: "To the best of your knowledge, are you related within the fourth degree of consanguinity or of affinity to anyone working in the government?" while Rivera indicated "n/a" on the space for the list of the names of relatives referred to in the said query.[4] The boxes for "Yes" and "No" to the said query were left in blank by Galeos in his 1994 and 1995 SALN.[5] Rivera in his 1995 SALN answered "No" to the question on relatives in government.[6] In their 1996 SALN, both Galeos and Rivera also did not fill up the boxes indicating their answers to the same query.[7] Ong's signature appears in all the foregoing documents as the person who administered the oath when Galeos and Rivera executed the foregoing documents.

In a letter-certification dated June 1, 1994 addressed to Ms. Benita O. Santos, Regional Director, Civil Service Commission (CSC), Regional Office 7, Cebu City, it was attested that:

This is to certify that pursuant to the provisions of R.A. 7160, otherwise known as the Local Government Code of 1991, all restrictions/requirements relative to creation of positions, hiring and issuance of appointments, Section 325 on the limitations for personal services in the total/supplemental appropriation of a local government unit; salary rates; abolition and creation of positions, etc.; Section 76, organizational structure and staffing pattern; Section 79 on nepotism; Section 80, posting of vacancy and personnel selection board; Section 81 on compensation, etc. have been duly complied with in the issuance of this appointment.

This is to certify further that the faithful observance of these restrictions/requirements was made in accordance with the requirements of the Civil Service Commission before the appointment was submitted for review and action.[8] (Emphasis supplied.)

The above certification was signed by Ong and HR Officer-Designate Editha C. Garcia.

On October 1, 1998, the members of the Sangguniang Bayan of Naga, Cebu filed a letter-complaint[9] before the Office of the Ombudsman (OMB)-Visayas against Ong (then incumbent Vice-Mayor of Naga), Galeos and Rivera for dishonesty, nepotism, violation of the Code of Conduct and Ethical Standards for Public Officials and Employees and Anti-Graft and Corrupt Practices Act, and for the crime of falsification of public documents.

On August 11, 2000, Ombudsman Aniano Desierto approved the recommendation of OIC-Deputy Ombudsman for the Visayas that criminal charges be filed against Ong, Galeos and Rivera for falsification of public documents under Article 171 of the Revised Penal Code, as amended, in connection with the Certification dated June 1, 1994 issued by Ong and the false statements in the 1993, 1995 and 1996 SALN of Rivera and the 1993, 1994, 1995 and 1996 SALN of Galeos.[10]

On August 16, 2000, the following Informations[11] were filed against the petitioners:

Criminal Case No. 26181

That on or about the 14[th] day of February, 1994, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Rosalio S. Galeos] accused, public officers, being the former Municipal Mayor and Construction and Maintenance Man of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In the Government Service, as of December 31, 1993, filed by accused Rosalio S. Galeos and subscribed and sworn to before accused Paulino S. Ong, wherein accused made it appear therein that they are not related within the fourth degree of consanguinity or affinity thereby making untruthful statements in a narration of facts, when in truth and in fact, accused very well knew that they are related with each other, since accused Rosalio S. Galeos is related to accused Paulino S. Ong within the fourth degree of consanguinity, the mother of accused Rosalio S. Galeos [being] the sister of the mother of accused Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26182

That on or about the 15[th] day of February 1994, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Federico T. Rivera] accused, public officers, being the former Municipal Mayor and Plumber I of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In the Government Service as of December 31, 1993, filed by accused Federico T. Rivera and subscribed and sworn to before accused Paulino S. Ong, wherein accused Federico T. Rivera made it appear therein that he has no relatives within the fourth degree of consanguinity or affinity working in the government, thereby making untruthful statements in a narration of facts, when in truth and in fact, as accused very well knew that they are related with each other, since accused Federico T. Rivera is related to accused Paulino S. Ong within the fourth degree of affinity, the mother of Federico T. Rivera's wife being the sister of the mother of Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26183

That on or about the 1[st] day of February, 1996, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Rosalio S. Galeos] accused, public officers, being the former Municipal Mayor and Construction and Maintenance Man of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In the Government Service, as of December 31, 1995, filed by accused Rosalio S. Galeos and subscribed and sworn to before accused Paulino S. Ong, wherein accused made it appear therein that they are not related within the fourth degree of consanguinity or affinity thereby making false statements in a narration of facts, when in truth and in fact, as accused very well k[n]ew that they are related with each other, since accused Rosalio S. Galeos is related to accused Paulino S. Ong within the fourth degree of consanguinity, the mother of accused Rosalio S. Galeos being the sister of the mother of accused Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26184

That on or about the 1[st] day of February 1996, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Federico T. Rivera] accused, public officers, being the former Municipal Mayor and Plumber I of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In The Government Service, [a]s of December 31, 1995, filed by accused Federico T. Rivera and subscribed and sworn to before accused Paulino S. Ong, wherein accused Federico T. Rivera made it appear therein that he has no relatives within the fourth degree of consanguinity or affinity working in the government, thereby making untruthful statements in a narration of facts, when in truth and in fact, as accused very well knew that they are related with each other, since accused Federico T. Rivera is related to accused Paulino S. Ong within the fourth degree of affinity, the mother of Federico T. Rivera's wife being the sister of the mother of Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26185

That on or about the 5[th] day of February 1997, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Federico T. Rivera] accused, public officers, being the former Municipal Mayor and Plumber I of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In The Government Service, [a]s of December 31, 1996, filed by accused Federico T. Rivera and subscribed and sworn to before accused Paulino S. Ong, wherein accused Federico T. Rivera made it appear therein that he has no relatives within the fourth degree of consanguinity or affinity working in the government, thereby making untruthful statements in a narration of facts, when in truth and in fact, as accused very well knew that they are related with each other, since accused Federico T. Rivera is related to accused Paulino S. Ong within the fourth degree of affinity, the mother of Federico T. Rivera's wife being the

sister of the mother of Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26186

That on or about the 3[rd] day of March, 1995, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Rosalio S. Galeos] accused, public officers, being the former Municipal Mayor and Construction and Maintenance Man of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In the Government Services, as of December 31, 1994, filed by accused Rosalio S. Galeos and subscribed and sworn to before accused Paulino S. Ong, wherein accused made it appear therein that they are not related within the fourth degree of consanguinity or affinity thereby making untruthful statements in a narration of facts, when in truth and in fact, as accused very well k[n]ew that they are related with each other, since accused Rosalio S. Galeos is related to accused Paulino S. Ong, within the fourth degree of consanguinity, the mother of accused Rosalio S. Galeos being the sister of the mother of accused Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26187

That on or about the 11[th] day of March, 1997, in the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named [Paulino S. Ong and Rosalio S. Galeos] accused, public officers, being the former Municipal Mayor and Construction and Maintenance Man of the Office of the Municipal Engineer, Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, conniving and confederating, together and mutually helping with each other, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Sworn Statement of Assets and Liabilities, Disclosure of Business Interests and Financial Connections and Identification of Relatives In the Government Service, as of December 31, 1996, filed by accused Rosalio S. Galeos and subscribed and sworn to before accused Paulino S. Ong, wherein accused made it appear therein that they are not related within the fourth degree of consanguinity or affinity thereby making untruthful statements in a narration of facts, when in truth and in fact, as accused very well k[n]ew that they are related with each other, since accused Rosalio S. Galeos is related to accused Paulino S. Ong within the fourth degree of consanguinity, the mother of accused Rosalio S. Galeos being the sister of the mother of accused Paulino S. Ong.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26188

That on or about the 1[st] day of June, 1994, at the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, a public officer, being the former Mayor of the Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Certification in the form of a letter addressed to Mrs. Benita O. Santos, then Regional Director of the Civil Service Commission (CSC)-Region VII, Cebu City dated June 1, 1994, a requirement in the approval of an appointment, certifying therein that there was a faithful compliance of the requirement/restriction provided under the Civil Service Laws and Rules in the appointment of Rosalio S. Galeos, as Construction and Maintenance Man of the Office of the Municipal Engineer, Naga, Cebu, thereby

making untruthful statements in a narration of facts, when in truth and in fact as accused very well knew that the appointment of Rosalio S. Galeos was nepotism being made in violation of the Civil Service Rules and Laws on Nepotism, as Rosalio S. Galeos is related to accused within the fourth degree of consanguinity, since the mother of Rosalio S. Galeos is the sister of the mother of accused, which Certification caused the approval of the appointment of Rosalio S. Galeos, to the detriment of public interest.

CONTRARY TO LAW. (Emphasis supplied.)

Criminal Case No. 26189

That on or about the 1[st] day of June, 1994, at the Municipality of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, a public officer, being the former Mayor of the Municipality of Naga, Cebu, in such capacity and committing the offense in relation to office, with deliberate intent, with intent to falsify, did then and there willfully, unlawfully and feloniously falsify a public document, consisting of a Certification in the form of a letter addressed to Mrs. Benita O. Santos, then Regional Director of the Civil Service Commission (CSC), Region VII, Cebu City, dated June 1, 1994, a requirement in the approval of an appointment, certifying therein that there was a faithful compliance of the requirement/restriction provided under the Civil Service Laws and Rules in the appointment of Federico T. Rivera, a Plumber I of the Office of the Municipal Engineer, Naga, Cebu, thereby making untruthful statements in a narration of facts, when in truth and in fact as accused very well knew that the appointment of Federico T. Rivera was nepotism being made in violation of the Civil Service Rules and Laws on Nepotism, as Federico T. Rivera is related to accused within the fourth degree of affinity, since the mother of Federico T. Rivera's wife is the sister of the mother of accused, which certification caused the approval of the appointment of Federico T. Rivera, to the detriment of public interest.

CONTRARY TO LAW. (Emphasis supplied.)

Under the Joint Stipulation of Facts submitted to the court a quo, the accused made the following admissions: (1) Ong was the Municipal Mayor of Cebu at all times relevant to these cases; (2) Ong is related to Galeos, within the fourth degree of consanguinity as his mother is the sister of Galeos' mother, and to Rivera within the fourth degree of affinity as his mother is the sister of the mother of Rivera's wife; and (3) Galeos and Rivera were employed as Construction and Maintenance Man and Plumber I, respectively, in the Municipal Government of Naga, Cebu at all times relevant to these cases. Ong likewise admitted the genuineness and due execution of the documentary exhibits presented by the prosecutor (copies of SALNs and Certification dated June 1, 1994) except for Exhibit "H" (Certification dated June 1, 1994 offered by the prosecution as "allegedly supporting the appointment of Rosalio S. Galeos"[12]).[13]

As lone witness for the prosecution, Esperidion R. Canoneo testified that he has been a resident of Pangdan, Naga, Cebu since 1930 and claimed to be friends with Ong, Galeos and Rivera. He knows the mother of Galeos, Pining Suarez or Peñaranda Suarez. But when the prosecutor mentioned "Bining Suarez," Canoneo stated that Bining Suarez is the mother of Galeos and that Bining Suarez is the same person as "Bernardita Suarez." Ong is related to Galeos because Ong's mother, Conchita Suarez, and Galeos' mother, Bernardita Suarez, are sisters. As to Rivera, his wife Kensiana,[14] is the daughter of Mercedes Suarez who is also a sister of Conchita Suarez. He knew the Suarez sisters because they were the neighbors of his grandmother whom he frequently visited when he was still studying.[15]

Both Galeos and Rivera testified that they only provided the entries in their SALN but did not personally fill up the forms as these were already filled up by "people in the municipal hall" when they signed them.

Galeos, when shown his 1993 SALN,[16] confirmed his signature thereon. When he was asked if he understood the question "To the best of your knowledge, are you related within the fourth degree of consanguinity or affinity

to anyone working in the government?" he answered in the negative. He claimed that the "X" mark corresponding to the answer "No" to said question, as well as the other entries in his SALN, were already filled up when he signed it. When shown his SALN for the years 1994, 1995 and 1996, Galeos reiterated that they were already filled up and he was only made to sign them by an employee of the municipal hall whom he only remembers by face. He also admitted that he carefully read the documents and all the entries therein were explained to him before he affixed his signature on the document. However, when asked whether he understands the term "fourth degree of consanguinity or affinity" stated in the SALNs, he answered in the negative.[17]

Rivera testified that he was not aware that his wife was a close relative of the Municipal Mayor because when he asked her, the latter told him that Ong was a distant relative of hers. Rivera added that it was not Ong who first appointed him as a casual employee but Ong's predecessor, Mayor Vicente Mendiola.[18]

On the part of Ong, he testified that at the time he was serving as Municipal Mayor of Naga, he did not know that he and Galeos are relatives, as in fact there are several persons with the surname "Galeos" in the municipality. He signed Galeos' 1993 SALN when it was presented to him by Galeos at his office. There were many of them who brought such documents and he would administer their oaths on what were written on their SALN, among them were Galeos and Rivera. He came to know of the defect in the employment of Galeos when the case was filed by his "political enemy" in the Ombudsman just after he was elected Vice-Mayor in 1998. As to Rivera, Ong claimed that he knows him as a casual employee of the previous administration. As successor of the former mayor, he had to re-appoint these casual employees and he delegated this matter to his subordinates. He maintained that his family was not very close to their other relatives because when he was not yet Mayor, he was doing business in Cebu and Manila. When queried by the court if he had known his relatives while he was campaigning considering that in the provinces even relatives within the 6th and 7th degree are still regarded as close relatives especially among politicians, Ong insisted that his style of campaigning was based only on his performance of duties and that he did not go from house to house. Ong admitted that he had been a resident of Naga, Cebu since birth. He could no longer recall those SALN of most of the employees whose oaths he had administered. He admitted that he was the one who appointed Galeos and Rivera to their permanent positions and signed their official appointment (Civil Service Form No. 33) but he was not aware at that time that he was related to them. It was only after the filing of the case that he came to know the wife of Rivera. As to the qualifications of these appointees, he no longer inquired about it and their appointments were no longer submitted to the Selection Board. When the appointment forms for Galeos and Rivera were brought to his office, the accompanying documents were attached thereto. Ong, however, admitted that before the permanent appointment is approved by the CSC, he issues a certification to the effect that all requirements of law and the CSC have been complied with.[19]

On August 18, 2005, the Sandiganbayan promulgated the assailed Decision convicting Ong, Galeos and Rivera, as follows:

WHEREFORE, judgment is hereby rendered on the following:

In Criminal Case No. 26181, judgment is hereby rendered finding accused Paulino S. Ong and Rosalio S. Galeos 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 Prison Correccional medium as the minimum penalty to EIGHT (8) YEARS and ONE (1) DAY of Prison Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26182, judgment is hereby rendered finding accused Paulino S. Ong and Federico T.

Rivera 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26183, judgment is hereby rendered finding accused Paulino S. Ong and Rosalio S. Galeos 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26184, judgment is hereby rendered finding accused Paulino S. Ong and Federico T. Rivera 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26185, judgment is hereby rendered finding accused Paulino S. Ong and Federico T. Rivera 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26186, judgment is hereby rendered finding accused Paulino S. Ong and Rosalio S. Galeos 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26187, judgment is hereby rendered finding accused Paulino S. Ong and Rosalio S. Galeos 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 and ONE (1) DAY of Prision Mayor medium as the maximum penalty and to each pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

In Criminal Case No. 26188, judgment is hereby rendered finding accused Paulino S. Ong NOT GUILTY for Violation of Article 171 of the Revised Penal Code for failure of the Prosecution to prove his guilt beyond reasonable doubt; and

In Criminal Case No. 26189, judgment is hereby rendered finding accused Paulino S. Ong GUILTY beyond reasonable doubt for 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 Prison Correccional medium as the minimum penalty to EIGHT (8) YEARS and ONE (1) DAY of Prison Mayor medium as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (P5,000.00).

SO ORDERED.[20]

In its Resolution[21] dated August 28, 2006, the Sandiganbayan denied the motions for reconsideration of Ong and Galeos. However, in view of the death of Rivera on August 22, 2003 before the promulgation of the decision, the cases (Criminal Case Nos. 26182, 26184 and 26185) against him were dismissed.

In G.R. Nos. 174730-37, Galeos contends that the Sandiganbayan erred when:

- 1) . . . IT HELD THAT THE SUBJECT DOCUMENTARY EVIDENCE CONTAINED UNTRUTHFUL STATEMENTS IN A NARRATION OF FACTS.
- 2) . . . IT DID NOT CONSIDER PETITIONER'S VALID DEFENSE OF GOOD FAITH AND LACK OF INTENT TO COMMIT THE CRIMES IMPUTED.
- 3) . . . IT GAVE FULL CREDENCE TO THE TESTIMONY OF THE SOLE WITNESS FOR THE PROSECUTION.[22]

In support of his assigned errors, Galeos argues that he did not make untruthful or false statements in his SALN since a "statement" requires a positive averment and thus silence or non-disclosure cannot be considered one. And even if they are considered statements, Galeos contends that they were not made in a "narration of facts" and the least they could be considered are "conclusions of law." He also argues that the prosecution failed to adduce any evidence to support the finding that he was aware of their relationship at the time of the execution of the SALN. With the presence of good faith, Galeos avers that the fourth element of the crime - the perversion of truth in the narration of facts was made with the wrongful intent of injuring a third person - is missing. He also faults the Sandiganbayan for its heavy reliance on the uncorroborated testimony of the prosecution's sole witness despite the fact that there are aspects in his testimony that do not inspire belief.

On the other hand, in G.R. Nos. 174845-52, Ong argues that the Sandiganbayan erred when:

(a)

. . . IT HELD THAT THE SUBJECT DOCUMENTARY EVIDENCE CONTAINED UNTRUTHFUL STATEMENTS IN A NARRATION OF FACTS.

(b)

IN CRIMINAL CASES NOS. 26181-26187, [IT HELD] THAT A PERSON MERELY ADMINISTERING THE OATH IN A DOCUMENT IS GUILTY OF THE CRIME OF FALSIFICATION BY MAKING UNTRUTHFUL STATEMENTS IN A NARRATION OF FACTS.

(c)

. . . IN CRIMINAL CASE NO. 26189, ... IT INFER[R]ED, DESPITE THE COMPLETE ABSENCE OF ANY RELEVANT AND MATERIAL EVIDENCE, THAT RESPONDENT'S EXHIBIT "I" (OR PETITIONER'S EXHIBIT "8") REFERS TO OR SUPPORTS THE APPOINTMENT OF FEDERICO T. RIVERA.[23]

Ong similarly argues that the subject SALN do not contain any untruthful statements containing a narration of facts and that there was no wrongful intent of injuring a third person at the time of the execution of the documents. He contends that he cannot be held liable for falsification for merely administering the oath in a

document since it is not among the legal obligations of an officer administering the oath to certify the truthfulness and/or veracity of the contents of the document. Neither can he be made liable for falsification regarding the letter-certification he issued since there was no evidence adduced that it was made to support Rivera's appointment.

In the Joint Memorandum filed by the Ombudsman through the Office of the Special Prosecutor of the Sandiganbayan, it was pointed out that Galeos categorically admitted during his testimony that before affixing his signature on the subject SALN, he carefully read its contents and the entries therein have been explained to him. Moreover, the admission made by Ong during the pre-trial under the joint stipulation of facts indicated no qualification at all that he became aware of his relationship with Galeos and Rivera only after the execution of the subject documents. The defense of lack of knowledge of a particular fact in issue, being a state of mind and therefore self-serving, it can be legally assumed that the admission of that particular fact without qualification reckons from the time the imputed act, to which the particular fact relates, was committed. As to mistaken reliance on the testimony of prosecution witness, the analysis and findings in the assailed decision do not show that such testimony was even taken into consideration in arriving at the conviction of petitioners.[24]

With respect to Ong's liability as conspirator in the execution of the SALN containing untruthful statements, the Special Prosecutor argues that as a general rule, it is not the duty of the administering officer to ascertain the truth of the statements found in a document. The reason for this is that the administering officer has no way of knowing if the facts stated therein are indeed truthful. However, when the facts laid out in the document directly involves the administering officer, then he has an opportunity to know of their truth or falsity. When an administering officer nevertheless administers the oath despite the false contents of the document, which are known to him to be false, he is liable, not because he violated his duty as an administering officer, but because he participated in the falsification of a document.[25]

After a thorough review, we find the petitions unmeritorious.

Petitioners were charged with falsification of public document under Article 171, paragraph 4 of the Revised Penal Code, as amended, which states:

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:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;

x x x x (Emphasis and italics supplied.)

The elements of falsification in the above provision are as follows:

- (a) the offender makes in a public document untruthful statements in a narration of facts;
- (b) he has a legal obligation to disclose the truth of the facts narrated by him; and
- (c) the facts narrated by him are absolutely false.[26]

In addition to the afore-cited elements, it must also be proven that the public officer or employee had taken advantage of his official position in making the falsification. In falsification of public document, the offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.[27] 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.[28]

Falsification of Public Document
by making untruthful statements
concerning relatives in the
government service

All the elements of falsification of public documents by making untruthful statements have been established by the prosecution.

Petitioners argue that the statements "they are not related within the fourth civil degree of consanguinity or affinity" and "that Section 79 of the Local Government Code has been complied with in the issuance of the appointments" are not a narration of facts but a conclusion of law, as both require the application of the rules on relationship under the law of succession. Thus, they cite *People v. Tugbang*[29] where it was held that "a statement expressing an erroneous conclusion of law cannot be considered a falsification." Likewise, in *People v. Yanza*,[30] it was held that when defendant certified that she was eligible for the position, she practically wrote a conclusion of law, which turned out to be incorrect or erroneous; hence, she may not be declared guilty of falsification because the law violated pertains to narration of facts.

We disagree.

A conclusion of law is a determination by a judge or ruling authority regarding the law that applies in a particular case. It is opposed to a finding of fact, which interprets the factual circumstances to which the law is to be applied.[31] A narration of facts is merely an account or description of the particulars of an event or occurrence.[32] We have held that a certification by accused officials in the Statement of Time Elapsed and Work Accomplished qualifies as a narration of facts as contemplated under Article 171 (4) of the Revised Penal Code, as it consisted not only of figures and numbers but also words were used therein giving an account of the status of the flood control project.[33]

In this case, the required disclosure or identification of relatives "within the fourth civil degree of consanguinity or affinity" in the SALN involves merely a description of such relationship; it does not call for an application of law in a particular set of facts. On the other hand, Articles 963 to 967 of the Civil Code simply explain the concept of proximity of relationship and what constitute direct and collateral lines in relation to the rules on succession. The question of whether or not persons are related to each other by consanguinity or affinity within the fourth degree is one of fact. Contrary to petitioners' assertion, statements concerning relationship may be proved as to its truth or falsity, and thus do not amount to expression of opinion. When a government employee is required to disclose his relatives in the government service, such information elicited therefore qualifies as a narration of facts contemplated under Article 171 (4) of the Revised Penal Code, as amended. Further, it bears to stress that the untruthful statements on relationship have no relevance to the employee's eligibility for the position but pertains rather to prohibition or restriction imposed by law on the appointing power.

Since petitioner Galeos answered "No" to the question in his 1993 SALN if he has relatives in the government service within the fourth degree of consanguinity, he made an untruthful statement therein as in fact he was

related to Ong, who was then the municipal mayor, within the fourth degree of consanguinity, he and Ong being first cousins (their mothers are sisters). As to his 1994, 1995 and 1996 SALN, Galeos left in blank the boxes for the answer to the similar query. In *Dela Cruz v. Mudlong*,^[34] it was held that one is guilty of falsification in the accomplishment of his information and personal data sheet if he withholds material facts which would have affected the approval of his appointment and/or promotion to a government position. By withholding information on his relative/s in the government service as required in the SALN, Galeos was guilty of falsification considering that the disclosure of such relationship with then Municipal Mayor Ong would have resulted in the disapproval of his permanent appointment pursuant to Article 168 (j) (Appointments), Rule XXII of the Rules and Regulations Implementing the Local Government Code of 1991 (R.A. No. 7160), which provides:

No person shall be appointed in the local government career service if he is related within the fourth civil degree of consanguinity or affinity to the appointing power or recommending authority.

Section 7 (e), Rule V of the Implementing Rules of Book V, Executive Order No. 292 otherwise known as the Administrative Code of 1987, provides that the CSC shall disapprove the appointment of a person who "has been issued such appointment in violation of existing Civil Service Law, rules and regulations." Among the prohibited appointments enumerated in CSC Memorandum Circular No. 38, series of 1993 are appointments in the LGUs of persons who are related to the appointing or recommending authority within the fourth civil degree of consanguinity.^[35]

The Omnibus Rules on Appointments and Other Personnel Actions (CSC Memorandum Circular No. 40, series of 1998 dated December 14, 1998) contain a similar prohibition under Rule XIII, Section 9:

SEC. 9. No appointment in the national, provincial, city or municipal governments or any branch or instrumentality thereof, including government owned or controlled corporations with original charters shall be made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office or of the person exercising immediate supervision over the appointee.

Unless otherwise provided by law, the word "relative" and the members of the family referred to are those related within the third degree either of consanguinity or of affinity.

In the local government career service, the prohibition extends to the relatives of the appointing or recommending authority, within the fourth civil degree of consanguinity or affinity.

x x x x

The nepotism rule covers all kinds of appointments whether original, promotional, transfer and reemployment regardless of status including casuals and contractuels except consultants. (Emphasis supplied.)

The second element is likewise present. "Legal obligation" means that there is a law requiring the disclosure of the truth of the facts narrated.^[36] Permanent employees employed by local government units are required to file the following: (a) sworn statement of assets, liabilities and net worth (SALN); (b) lists of relatives within the fourth civil degree of consanguinity or affinity in government service; (c) financial and business interests; and (d) personal data sheets as required by law.^[37] A similar requirement is imposed by Section 8 (B) of Republic Act No. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, thus:

(B) Identification and disclosure of relatives^[38]. - It shall be the duty of every public official or employee to identify and disclose to the best of his knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

Section 11 of the same law penalizes the violation of the above provision, either with imprisonment or fine, and,

in the discretion of the court of competent jurisdiction, disqualification to hold public office. Such violation if proven in a proper administrative proceeding shall also be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

The evidence on record clearly showed that Galeos' negative answer reflected in his SALN is absolutely false. During the trial, both Ong and Galeos admitted the fact that they are first cousins but denied having knowledge of such relationship at the time the subject documents were executed. The Sandiganbayan correctly rejected their defense of being unaware that they are related within the fourth degree of consanguinity. Given the Filipino cultural trait of valuing strong kinship and extended family ties, it was unlikely for Galeos who had been working for several years in the municipal government, not to have known of his close blood relation to Ong who was a prominent public figure having ran and won in the local elections four times (three terms as Mayor and as Vice-Mayor in the 1998 elections), after serving as OIC Mayor of the same municipality in 1986 until 1988.

The same thing can be said of Ong, whose unbelievable claim that he had no knowledge that a first cousin (Galeos) was working in the municipal government and appointed by him to a permanent position during his incumbency, was correctly disregarded by the Sandiganbayan. It was simply unthinkable that as a resident of Naga, Cebu since birth and a politician at that, he was all the time unaware that he himself appointed to permanent positions the son of his mother's sister (Galeos) and the husband of his first cousin (Rivera). Indeed, the reality of local politics and Filipino culture renders his defense of good faith (lack of knowledge of their relationship) unavailing. Despite his knowledge of the falsity of the statement in the subject SALN, Ong still administered the oath to Galeos and Rivera who made the false statement under oath. The Sandiganbayan thus did not err in finding that Ong connived with Galeos and Rivera in making it appear in their SALN that they have no relative within the fourth degree of consanguinity/affinity in the government service.

Conspiracy need not be shown by direct proof of an agreement of the parties to commit the crime,[39] as it can be inferred from the acts of the accused which clearly manifest a concurrence of wills, a common intent or design to commit a crime.[40] In this case, Ong administered the oaths to Galeos and Rivera in the subject SALN not just once, but three times, a clear manifestation that he concurred with the making of the untruthful statement therein concerning relatives in the government service.

Falsification by making
untruthful statements
in the Certification re:
compliance with the
prohibition on nepotism

As chief executive and the proper appointing authority, Ong is deemed to have issued the certification recommending to the CSC approval of Galeos' appointment although he admitted only the authenticity and due execution of Exhibit "I". Since Ong was duty bound to observe the prohibition on nepotistic appointments, his certification stating compliance with Section 79[41] of R.A. No. 7160 constitutes a solemn affirmation of the fact that the appointee is not related to him within the fourth civil degree of consanguinity or affinity. Having executed the certification despite his knowledge that he and Rivera were related to each other within the fourth degree of affinity, as in fact Rivera was his cousin-in-law because the mother of Rivera's wife is the sister of Ong's mother, Ong was guilty of falsification of public document by making untruthful statement in a narration of facts. He also took advantage of his official position as the appointing authority who, under the Civil Service rules, is required to issue such certification.

The importance of the certification submitted to the CSC by the proper appointing authority in the local

government unit, regarding compliance with the prohibition against nepotism under R.A. No. 7160 cannot be overemphasized. Under Section 67, Book V, Chapter 10 of the Administrative Code of 1987, a head of office or appointing official who issues an appointment or employs any person in violation of Civil Service Law and Rules or who commits fraud, deceit or intentional misrepresentation of material facts concerning other civil service matters, or anyone who violates, refuses or neglects to comply with any of such provisions or rules, may be held criminally liable. In *Civil Service Commission v. Dacoycoy*,^[42] we held that mere issuance of appointment in favor of a relative within the third degree of consanguinity or affinity is sufficient to constitute a violation of the law. Although herein petitioners were prosecuted for the criminal offense of falsification of public document, it becomes obvious that the requirement of disclosure of relationship to the appointing power in the local government units simply aims to ensure strict enforcement of the prohibition against nepotism.

Relevant then is our pronouncement in *Dacoycoy*:

Nepotism is one pernicious evil impeding the civil service and the efficiency of its personnel. In *Debulgado*, we stressed that "[T]he basic purpose or objective of the prohibition against nepotism also strongly indicates that the prohibition was intended to be a comprehensive one." "The Court was unwilling to restrict and limit the scope of the prohibition which is textually very broad and comprehensive." If not within the exceptions, it is a form of corruption that must be nipped in the bud or abated whenever or wherever it raises its ugly head. As we said in an earlier case "what we need now is not only to punish the wrongdoers or reward the 'outstanding' civil servants, but also to plug the hidden gaps and potholes of corruption as well as to insist on strict compliance with existing legal procedures in order to abate any occasion for graft or circumvention of the law."^[43] (Emphasis supplied.)

The prosecution having established with moral certainty the guilt of petitioners for falsification of public documents under Article 171 (4) of the Revised Penal Code, as amended, we find no legal ground to reverse petitioners' conviction.

WHEREFORE, the petitions are DENIED. The Decision dated August 18, 2005 of the Sandiganbayan in Criminal Case Nos. 26181-26187 and 26189 is AFFIRMED.

With costs against the petitioners.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Mendoza,^[*] JJ., concur.

[*] Designated additional member per Special Order No. 944-A dated February 9, 2011.

[1] *Rollo* (G.R. Nos. 174730-35), pp. 51-73. Penned by Associate Justice Diosdado M. Peralta (now a Member of this Court) and concurred in by Associate Justices Teresita J. Leonardo-De Castro (also now a Member of this Court) and Efren N. Dela Cruz.

[2] *TSN*, May 9, 2002, pp. 41-42, 62.

[3] Exhibits "J" and "K", folder of exhibits.

[4] Exhibits "A" and "B", *id.*

[5] Exhibits "C" and "F", *id.*

[6] Exhibit "D", *id.*

- [7] Exhibits "E" and "G", id.
- [8] Exhibit "I", id.
- [9] Records, Vol. I, pp. 13-16.
- [10] Id. at 5-12.
- [11] Separate folders.
- [12] Records, Vol. 1, p. 181.
- [13] Id. at 202-204.
- [14] "Quinciana" in some parts of the TSN.
- [15] TSN, May 3, 2001, pp. 11-18.
- [16] Exhibit "A," folder of exhibits.
- [17] TSN, May 9, 2002, pp. 22-32.
- [18] Id. at 12-19.
- [19] Id. at 33, 42-47, 50-59, 64-72.
- [20] Rollo (G.R. Nos. 174730-37), pp. 69-72.
- [21] Id. at 94-98.
- [22] Id. at 25.
- [23] Rollo (G.R. Nos. 174845-52), p. 18.
- [24] Rollo (G.R. Nos. 174730-37), pp. 192-193, 203-207.
- [25] Id. at 199-201.
- [26] Fullero v. People, G.R. No. 170583, September 12, 2007, 533 SCRA 97, 114, citing Santos v. Sandiganbayan, G.R. Nos. 71523-25, December 8, 2000, 347 SCRA 386, 424.
- [27] Id., citing Luis B. Reyes, The Revised Penal Code, Criminal Law (14[th] Edition, Revised 1998), BOOK TWO, ARTS. 114-367, p. 216, People v. Uy, 101 Phil. 159, 163 (1957) and United States v. Inosanto, 20 Phil. 376, 378 (1911); Adaza v. Sandiganbayan, G.R. No. 154886, July 28, 2005, 464 SCRA 460, 478-479.
- [28] Regidor, Jr. v. People, G.R. Nos. 166086-92, February 13, 2009, 579 SCRA 244, 263, citing Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 345, Lumancas v. Intas, G.R. No. 133472, December 5, 2000, 347 SCRA 22, 33-34, further citing People v. Po Giok To, 96 Phil. 913, 918 (1955).
- [29] G.R. No. 76212, April 26, 1991, 196 SCRA 341, 350.
- [30] 107 Phil. 888, 890-891 (1960).
- [31] <http://definitions.uslegal.com/c/conclusion-of-law/>.
- [32] Bartolo v. Sandiganbayan, Second Division, G.R. No. 172123, April 16, 2009, 585 SCRA 387, 394.
- [33] Id.

[34] Adm. Matter No. P-985, July 31, 1978, 84 SCRA 280.

[35] VII (Prohibitions on Appointments), 2(b).

[36] Luis B. Reyes, *The Revised Penal Code, Book Two*, (17th Edition, Rev. 2008), p. 223.

[37] Art. 175, Rule XXII, Rules and Regulations Implementing the Local Government Code of 1991.

[38] Sec. 3. x x x

x x x x

(k) "Relatives" refers to any and all persons related to a public official or employee within the fourth civil degree of consanguinity or affinity, including bilas, inso and balae.

[39] *People v. Herida*, G.R. No. 127158, March 5, 2001, 353 SCRA 650, 659.

[40] *People v. Lenantud*, G.R. No. 128629, February 22, 2001, 352 SCRA 549, 563.

[41] Sec. 79. Limitation on Appointments. - No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority.

[42] G.R. No. 135805, April 29, 1999, 306 SCRA 425, 435.

[43] *Id.* at 438-439.

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