

## FIRST DIVISION

[ G.R. Nos. 160243-52, July 20, 2009 ]

### ROMEO D. LONZANIDA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

#### D E C I S I O N

##### LEONARDO-DE CASTRO, J.:

On appeal to this Court by way of a petition for review on certiorari under Rule 45 of the Rules of Court are the <sup>[1]</sup> Decision<sup>[1]</sup> of the Sandiganbayan dated July 25, 2003, convicting petitioner of ten (10) counts of Falsification of Public Document defined and penalized under paragraph 2 of Article 171 of the Revised Penal Code, and <sup>[2]</sup> Resolution<sup>[2]</sup> dated September 24, 2003, denying petitioner's motion for reconsideration.

Petitioner Romeo D. Lonzanida, then Municipal Mayor of San Antonio, Zambales, was among those criminally charged with Falsification of Public Document as defined and penalized under Paragraph 2 of Article 171 of the Revised Penal Code before the Office of the Provincial Prosecutor on separate complaints<sup>[3]</sup> filed on various dates by Efren Tayag, Elsie de Dios, Daniel Alegado and Rene Abad. Also included in the complaints was Romulo Madarang (Madarang), the Assistant Municipal Treasurer.

The complaints alleged that petitioner, as Municipal Mayor of San Antonio, Zambales, notarized thirteen (13) *Affidavits of Ownership*<sup>[4]</sup> of parcels of 117-hectare public land located at Barangay Pundakit, San Antonio, Zambales, particularly described as Lot No. 5504. The *Affidavits of Ownership* appeared to have been executed by Edzel L. Lonzanida, Leo Lonzanida, Japhet Lonzanida, Peter John Madarang, Leo Madarang, Dolores Joy Madarang, Elsie de Dios, Medardo Domingo, Pedro Lacorte, Efren Tayag, Cedric Legrama, Charlie Lacap and Raphael Gonzales (Edzel Lonzanida, *et al.*). The purported affiants either denied executing and signing the same or were the minor children of petitioner and of Madarang.

The complaints also alleged that petitioner notarized thirteen (13) identically worded *Joint Affidavits*<sup>[5]</sup> of two disinterested persons purportedly executed and signed by Rufino Aniceto who is an illiterate and Roberto Querubin who was already deceased at the time of their execution.

On March 16, 1998, the Office of the Special Prosecutor issued a Memorandum<sup>[6]</sup> recommending that petitioner be charged with ten (10) counts of falsification, one for the *Joint Affidavits* and nine in connection with the *Affidavits of Ownership*. The recommendation was based upon the finding that of the thirteen (13) affiants in the *Affidavits of Ownership*, seven (7) were minors.<sup>[7]</sup> Hence, their signatures appearing thereon and the facts stated in the said documents were all false. In addition, two (2) affiants, Efren Tayag and Elsie de Dios denied their participation in the *Affidavits*

*of Ownership.*

Thus, ten (10) Informations for Falsification of Public Document against petitioner were filed before the Sandiganbayan.

Criminal Case Nos. 24644 to 24652,<sup>[8]</sup> except for the names of the alleged affiants of the falsified *Affidavits of Ownership*, were similarly worded, viz:

That on or about the 17<sup>th</sup> day of October, 1995, in the Municipality of San Antonio, province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the said accused being then the Municipal Mayor of San Antonio, Zambales, taking advantage of his official position and committing the offense in relation to his duties, did then and there, willfully, unlawfully and feloniously falsify or cause to be falsified the Affidavit of Ownership dated October 17, 1995 which he subscribed thus making said document a public or official document, by making it appear, as it did appear, that said document was made, prepared and signed by DOLORES JOY MADARANG thereby attributing to the latter participation and intervention in the making and preparation of said document by signing his name and affixing his signature thereon when in truth and in fact, said accused well knew, the said DOLORES JOY MADARANG did not so participate nor authorize the herein accused or anybody else to prepare and sign the same, thereby causing damage and prejudice to public interest.<sup>[9]</sup>

The Information in Criminal Case No. 23850<sup>[10]</sup> contained the following allegations:

That on or about the 17<sup>th</sup> day of October, 1995, in the Municipality of San Antonio, Province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the said accused being then Municipal Mayor of San Antonio, Zambales, did then and there, willfully, unlawfully and feloniously prepare a Joint-Affidavit which he ratified by stating and making it appear in the said document that the same was executed and signed before him by Rufino Aniceto and Roberto Querubin, as affiants who declared to know personally the owners of the parcel of land at Sitio Talisayen, Barangay Pundakit as Edzel L. Lonzanida, Peter John Madarang, Elsie de Dios, Leo Madarang, Leo Lonzanida, Japhet Lonzanida, Dolores Joy Madarang, Medardo Domingo, Pedro Lacorte, Efren Tayag, Cedric Legrama, Charlie Lacap and Rafael Gonzales and who have openly and continuously occupied the said land for thirty (30) years, when in truth and in fact, as said accused well knew, the said "Joint-Affidavit" was not executed and signed by Rufino Aniceto and Roberto Querubin, the latter having died prior to the execution of the said joint-affidavit, nor said affiants, ever appear before the accused for the purpose of swearing and subscribing the said document, to the damage and prejudice of the government.

Upon arraignment on November 5, 1998, petitioner, assisted by counsel, entered a

plea of "not guilty" to all the charges.

During trial, the prosecution presented as witnesses Municipal Assessor Leopoldo Cacho; complainants Efren Tayag, Elsie de Dios and Daniel C. Alegado; and relatives of purported affiants in the *Joint Affidavits* Rodolfo Querubin and Lydia Aniceto y dela Cruz.

Municipal Assessor Leopoldo Cacho testified that he is in charge of the preparation of Tax Declarations. He explained that for Tax Declarations of undeclared lands, the applicant is required to submit a Joint Affidavit of the neighboring owners of the property subject of the application together with the Affidavit of Ownership, a sketch plan and a Certification from the Community Environment and Natural Resources Office (CENRO). Cacho disclosed that in the latter part of 1995, Madarang filed 13 applications for Tax Declaration for Lot No. 5504. The applicants for the said parcel of land were, as mentioned earlier, Edzel Lonzanida, *et al.* Attached to each application were the *Joint Affidavits* of Rufino Aniceto and Roberto Querubin, *Affidavits of Ownership* of each of the applicants, Sketch Plan and the Certification from the CENRO. According to Cacho, after preparing the Tax Declarations, he advised Madarang to present to him the applicants to personally sign their respective Tax Declaration. However, Madarang took the Tax Declarations and assured Cacho that he [Mararang] would be the one to make the declarants sign. Cacho found out later that the Tax Declarations were already approved by the Provincial Assessor.

Efren Tayag testified that he is the real occupant of Lot No. 5504. He has been occupying the subject land since 1971 together with twenty-four (24) other persons and that none of the individuals who executed the *Affidavits of Ownership* were ever in possession of the said parcel of land.

Daniel C. Alegado, the Municipal Planning and Development Officer of San Antonio, Zambales, narrated that sometime in July 1996, he visited Vice-Governor Saturnino Bactad in his office at Capitol Building, Iba, Zambales. Bactad showed to him 13 *Joint Affidavits*, 13 *Affidavits of Ownership*, a Mayor's Certification and a Special Power of Attorney. According to Alegado, said documents unraveled an attempt to sell Lot No. 5504. He also testified that Edzel, Leo and Japhet, all surnamed Lonzanida, who appear to have signed the *Affidavits of Ownership*, are the minor children of petitioner. He stated further that Peter John, Leo and Dolores Joy, all surnamed Madarang, are the minor children of Romulo Madarang while Cedric Legrama is the son of Municipal Treasurer Cecilia Legrama and was only one year old at the time of the execution of the *Affidavits of Ownership* on October 17, 1995. Alegado added that on the same day - October 17, 1995, petitioner also administered the oath in the 13 *Joint Affidavits* making it appear that the same were executed by Rufino Aniceto and Roberto Querubin and that petitioner personally knew the two affiants to be the owners of the land adjacent to that subject of the *Affidavits of Ownership*.

Elsie de Dios testified that the signature appearing in the *Affidavit of Ownership* she purportedly executed was not hers and was in fact a forgery. She had not been in possession of any portion of Lot No. 5504 for thirty (30) years and she did not apply for the issuance of a Tax Declaration of the same.

Rodolfo Querubin, brother of Roberto Querubin, testified that his brother Roberto

could not have executed the *Joint Affidavits* on October 17, 1995 because Roberto died in Tarlac on May 3, 1981.

Lydia Aniceto y dela Cruz, the widow of the late Rufino Rafanan Aniceto who died on June 25, 1998, testified that she had been married to Rufino for 16 years. According to Lydia, the signatures in the *Joint Affidavits* appearing over the typewritten name Rufino R. Aniceto could not have been her husband's because the latter was illiterate and only used his thumbmark in affixing his signature on any document. As proof thereof, she presented a community tax certificate of Rufino with the latter's thumbmark.

The prosecution also presented the Counter-Affidavit of Cecilia Legrama, the mother of said Cedric Legrama wherein Cecilia declared that her son Cedric Legrama was only eleven (11) months old at the time of the execution of the purported *Affidavits of Ownership* and could not have therefore executed the same.

On the other hand, petitioner testified in his own defense. He acknowledged the signatures in the *Joint Affidavits* as his. According to petitioner, the documents were brought to him by Madarang and he signed on each of the affidavits as oath administering officer. He also admitted that he did not know Roberto Querubin and Rufino Aniceto, the affiants therein. Petitioner posited that the affidavits in question or the documentary exhibits of the public prosecutor are not documents, as contemplated under Article 171 of the Revised Penal Code and therefore, they cannot be falsified and made a criminal act thereunder. As to the *Affidavits of Ownership*, petitioner insisted that no witness was presented to show and state under oath that the signatures on the contested documents belong to him. He contended that in the absence of such evidence, he should be acquitted.

On October 20, 2000, the Sandiganbayan through its Fourth Division rendered a decision<sup>[11]</sup> convicting petitioner of ten (10) counts of Falsification as charged in Criminal Case Nos. 23850, 24644 to 24652.

On October 24, 2000, petitioner filed a motion for reconsideration. Again on December 22, 2000, without awaiting the resolution of said motion for reconsideration, petitioner filed a *Manifestation with Motion to Consider the Motion for Reconsideration as a Motion for New Trial as per Rule VIII of the Revised Rules of the Sandiganbayan in relation to Section 2 (a) of Rule 121 of the Rules on Criminal Procedure*.<sup>[12]</sup>

On January 8, 2001, the Sandiganbayan denied the motion for reconsideration.<sup>[13]</sup> On January 19, 2001, petitioner filed a *Manifestation and Submission of Evidence Which Became Available Only Recently*.<sup>[14]</sup> The evidence consisted of affidavits of recantation executed by Elsie de Dios, Rene Abad and Rodolfo Querubin.

In the resolution<sup>[15]</sup> dated April 5, 2001, the Sandiganbayan deferred ruling on the *Manifestation with Motion to Consider the Motion for Reconsideration as a Motion for New Trial* and required Elsie de Dios, Rene Abad and Rodolfo Querubin, to appear and testify before it.

In the resolution<sup>[16]</sup> dated October 30, 2001, petitioner's *Motion to Consider the Motion for Reconsideration as a Motion for New Trial* was treated as a second motion

for reconsideration, and denied on the ground that the same was filed without leave of court and that the filing of a second motion is proscribed by the rules. With the denial of his motion, petitioner filed a third motion for reconsideration which was opposed by the prosecution.

Unperturbed, petitioner filed a *Manifestation and/or Explanation with Leave of Court to File a Motion for Reconsideration*<sup>[17]</sup> questioning the October 30, 2001 resolution.

In the resolution<sup>[18]</sup> dated January 3, 2002, the Sandiganbayan gave in to petitioner's plea for a new trial and allowed him a last chance to present evidence in his behalf.

The prosecution filed a petition for certiorari, prohibition with prayer for a temporary restraining order and/or writ of preliminary injunction with this Court assailing the Sandiganbayan's January 3, 2002 resolution. The petition was docketed as G.R. Nos. 152365-74 but eventually dismissed by the Court in the resolution<sup>[19]</sup> dated July 24, 2002.

Petitioner was thus given a new trial and allowed to present, before the Sandiganbayan, witnesses Elsie de Dios, Leopoldo Cacho and Rene Abad as part of his testimonial evidence.

The three claimed that they were compelled by the political enemies of petitioner to testify against him and to sign the document, the contents of which they did not understand. Principally, their testimony was geared towards proving that no one was prejudiced with the issuance of the Tax Declaration.

Elsie de Dios and Leopoldo Cacho previously testified as witnesses for the prosecution. Recanting her previous testimony, Elsie de Dios testified that the complaint-affidavit which she signed was already prepared at the time she first laid eyes on it in the office of Atty. Hermana Bactad, who was allegedly a political opponent of petitioner. She claimed that no prejudice had been caused her by the execution of the *Joint-Affidavits* and *Affidavit of Ownership* because she did not apply for the issuance of a Tax Declaration on any portion of Lot No. 5504.

Leopoldo Cacho's recantation was to the effect that no one was prejudiced by the issuance of subject Tax Declarations. He rationalized that the government was not prejudiced by the issuance of the Tax Declarations in favor of the thirteen (13) applicants because the taxes therefor had been duly paid. He added that no person, other than the thirteen persons who signed the applications and *Affidavits of Ownership*, has claimed ownership over Lot No. 5504 which remains a public land until a title is issued to cover it.

Rene Abad claimed that he was used as a pawn by petitioner's political adversaries. According to him, he was brought by Atty. Hermana Bactad to the Office of the Provincial Prosecutor of Zambales where he was made to sign a prepared affidavit which he neither read nor fully comprehended. He likewise claimed that he was not prejudiced by the execution of the affidavits of ownership and the issuance of the tax declarations over the subject land.