

## EN BANC

[ G.R. No. 180314, April 16, 2009 ]

### **NORMALLAH A. PACASUM, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

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

##### **CHICO-NAZARIO, J.:**

Before Us is a petition for review on *certiorari* which seeks to set aside the Decision<sup>[1]</sup> of the Sandiganbayan in Crim. Case No. 27483 promulgated on 7 August 2007 which found petitioner Normallah A. Pacasum guilty of Falsification under Article 171, paragraph 1 of the Revised Penal Code, and its Resolution<sup>[2]</sup> dated 22 October 2007 denying petitioner's Motion for Reconsideration and Motion for New Trial/Reception of Newly Discovered Evidence.

On 2 May 2002, petitioner was charged before the Sandiganbayan with Falsification of Public Documents, defined and punished under paragraph 1 of Article 171 of the Revised Penal Code, committed as follows:

That on or about August 22-23, 2000, or sometime prior or subsequent thereto in Cotabato City, Philippines and within the jurisdiction of this Honorable Court, the accused NORMALLAH A. PACASUM, a high ranking public official being the Regional Secretary of the Department of Tourism in the Autonomous Region in Muslim Mindanao, Cotabato City, while in the performance of her official functions, committing the offense in relation thereto, taking advantage of her official position, did then and there, willfully, unlawfully and feloniously falsified her Employee Clearance<sup>[3]</sup> submitted to the Office of the Regional Governor of the Autonomous Region in Muslim Mindanao, by imitating the signature of Laura Y. Pangilan, the Supply officer I of the DOT-ARMM, for the purpose of claiming her salary for the months of August and September 2000.<sup>[4]</sup>

On 29 May 2002, petitioner filed a Motion for Reinvestigation asking that she be given the opportunity to file her counter-affidavit during a preliminary investigation in order that her right to due process would not be violated.<sup>[5]</sup> Petitioner further filed an Urgent Motion for Preliminary Investigation and/or Reinvestigation with a Prayer to Recall or Defer Issuance of Warrant of Arrest.<sup>[6]</sup>

On 4 May 2004, the Sandiganbayan denied petitioner's motion for preliminary investigation/reinvestigation decreeing that petitioner was not deprived of the opportunity to be heard before the Office of the Ombudsman as she had waived her right to be heard on preliminary investigation.<sup>[7]</sup>

On 16 June 2004, petitioner, assisted by counsel *de parte*, pleaded not guilty to the

crime charged.<sup>[8]</sup> Thereafter, pre-trial conference was held and the Sandiganbayan issued a Pre-Trial Order.<sup>[9]</sup> The parties did not enter any admission or stipulation of facts, and agreed that the issues to be resolved were as follows:

1. Whether or not accused Normallah Pacasum, being then the Regional Secretary of the Department of Tourism in the Autonomous Region in Muslim Mindanao, Cotabato City, falsified her Employee Clearance, which she submitted to the Office of the Regional Governor of the Autonomous Region in Muslim Mindanao, by imitating the signature of Laura Y. Pangilan, the Supply Officer I of the DOT-ARMM, for purposes of claiming her salary for the months of August and September 2000;
2. Whether or not the accused took advantage of her official position in order to commit the crime charged.<sup>[10]</sup>

The prosecution presented three witnesses, namely: Subaida K. Pangilan,<sup>[11]</sup> former Human Resource Management Officer V of the Autonomous Region in Muslim Mindanao (ARMM); Laura Y. Pangilan, former Supply Officer of the Department of Tourism, ARMM;<sup>[12]</sup> and Rebecca A. Agatep,<sup>[13]</sup> Telegraph Operator, Telegraph Office, Quezon City.

Subaida K. Pangilan (Pangilan) testified that she was a retired government employee and formerly a Human Resource Management Officer V of the ARMM which position she held from May 1993 to 28 May 2003. As such, one of her duties was to receive applications for clearance of Regional Secretaries of the ARMM. She explained that an Employees Clearance was a requirement to be submitted to the Office of the Regional Director by retiring employees, employees leaving the country or those applying for leave in excess of thirty days. The person applying for clearance shall get a copy of the employees clearance and shall accomplish the same by having the different division heads sign it.

Mrs. Pangilan disclosed that she knew the accused-petitioner - Norma Pacasum - to be the former Regional Secretary of the Department of Tourism (DOT), ARMM. She narrated that in the year 2000, petitioner submitted the original of an Employees Clearance to her office in compliance with the memorandum<sup>[14]</sup> dated 8 August 2000 issued by Governor Nur Misuari, directing all officers and employees to clear themselves of property and money accountabilities before their salaries for August and September 2000 would be paid. Upon inspection of the Employees Clearance, she noticed that the signature of Laura Pangilan (Laura) contained in said document was not hers. She said Laura Pangilan was her daughter-in-law, and that the latter's signature was very familiar to her. Mrs. Pangilan immediately photocopied<sup>[15]</sup> the original Employees Clearance with the intention of sending the same to her daughter-in-law for the purpose of having the latter confirm if the signature on top of her name in the Employees Clearance was hers. There being no messenger available, she instead called up Laura to come to her office to verify the signature. Laura, whose office was only a walking distance away, came and inspected the clearance, and denied signing the same. After she denied that she signed the clearance, and while they were conversing, the bearer of the Employees Clearance took said document and left.

Mrs. Pangilan said she did not know the name of the person who took the original of the Employee Clearance, but said that the latter was a niece and staff member of the petitioner. She said that all the signatures<sup>[16]</sup> appearing in the Employees Clearance were all genuine except for Laura's signature.

The next witness for the prosecution was Laura Y. Pangilan, the person whose signature was allegedly imitated. Laura testified that presently she was holding the position of Human Resource Management Officer II of the Department of Tourism - ARMM. Prior to said position, she was the Supply Officer of the DOT - ARMM from 1994 to January 2001. As such, she issued memorandum receipts (MR) to employees who were issued government property, and received surrendered office properties from officers and employees of the DOT - ARMM. She said she knew the accused, as she was their Regional Secretary of the DOT - ARMM.

Laura recounted that on 9 August 2002, Marie Cris<sup>[17]</sup> Batuampar, an officemate and niece of petitioner Pacasum, went to her house with the Employees Clearance of petitioner. Batuampar requested her to sign in order to clear petitioner of all property accountabilities. She refused to sign the clearance because at that time, petitioner had not yet turned over all the office properties issued to her. A few days later, she was called by her mother-in-law to go to the latter's office and inspect the Employees Clearance submitted by the representative of petitioner. She went to her mother-in-law's office and was shown the Employees Clearance of petitioner. Upon seeing the same, she denied the signature<sup>[18]</sup> appearing on top of her name. Thereupon, Marie Cris Batuampar, the representative of petitioner, took the Employees Clearance and left.

Laura revealed she executed a joint complaint-affidavit<sup>[19]</sup> dated 28 August 2001 regarding the instant case. She issued a certification<sup>[20]</sup> with a memorandum receipt<sup>[21]</sup> dated 23 November 1999, signed<sup>[22]</sup> by petitioner. The certification attested she did not sign petitioner's Employees Clearance because all the office properties issued to petitioner had not been turned over or returned to the Supply Officer of the DOT - ARMM. Finally, she said that as of 2 January 2005, her last day as Supply Officer, petitioner had not returned anything.

The last witness for the prosecution, Rebecca A. Agatep, Telegraph Operator, Telegraph Office, Quezon City, testified that she had been a telegraph operator for nineteen years. On 31 May 2005, she was at the Telegraph Office in Commission on Audit, Quezon City. She received two telegrams<sup>[23]</sup> for transmissions both dated 31 May 2005. One was addressed to petitioner and the other to Marie Cris Batuampar. Upon receiving said documents, she transmitted the documents through telegram. The telegram addressed to petitioner was received by her relative, Manso Alonto, in her residence on 1 June 2005, while that addressed to Ms. Batuampar was transmitted to, and received in, Cotabato City on 1 June 2005.<sup>[24]</sup>

On 4 July 2005, the prosecution formally offered<sup>[25]</sup> its documentary evidence consisting of Exhibits A, A-1, A-1-a, A-2, A-2-a, A-2-b, A-2-c, A-2-d, A-2-e, A-2-f, A-2-g, A-3, A-3-1, A-4, A-4-a, A-5, A-6, A-7, A-8, and A-9, to which the accused filed her objections.<sup>[26]</sup> The trial court admitted all the exhibits on 10 August 2005.<sup>[27]</sup>

For the defense, petitioner and Atty. Jose I. Lorena, former ARMM Regional Solicitor

General, took the stand.

For her defense, petitioner testified that she was appointed by ARMM Regional Governor Nur Misuari (Gov. Misuari) as Regional Secretary of the DOT of the ARMM in 1999. She said she was familiar with the Memorandum dated 8 August 2000 issued by Gov. Misuari directing all ARMM officers and employees to liquidate all outstanding cash advances on or before 31 August 2000 in view of the impending expiration of the Governor's extended term. At first, she said the memorandum applied to her, she being a cabinet secretary, but later she said same did not apply to her because she had no cash advances. Only those with cash advances were required to get an Employees Clearance before they could receive their salaries. She then instructed her staff to work on her salary.

Petitioner said she did not know where the original of her Employees Clearance was. Neither did she know if the signature of Laura Pangilan therein had been imitated or forged. She likewise said that although the Employee Clearance was in her name, she did not cause Laura's signature to be affixed thereto.

Petitioner disclosed that she was able to get her salary for the month of August 2000 sometime in said month, because ARMM Executive Secretary Randolph C. Parcasio told her that she did not need a clearance before she could get her salary because she was re-appointed.<sup>[28]</sup>

Petitioner explained that she has not seen the original of the subject Employees Clearance.<sup>[29]</sup> When she first saw the photocopy of the Employees Clearance, the signature of Laura was not there. She was able to see the photocopy of the Employees Clearance again after this case had been filed with the Sandiganbayan, already with the alleged signature of Laura. Petitioner said it was not she who placed or caused Laura's purported signature to be affixed there.

Petitioner added that the memorandum of Gov. Misuari did not apply to her, because she had no cash advances and she could receive her salary even without clearance. At that time, she said the Cashier, Accountant and the Auditor checked her records and found that she had no cash advances.<sup>[30]</sup> Because she was elsewhere, she instructed her secretary to get her salary. However, she was informed by her staff that her salary could not be released because the Office of the Governor required a clearance. Her staff worked on her clearance, the purpose of which was for the release of her salary for the months of August and September 2000. She was able to get all the needed signatures except for Laura's signature. With the refusal of Laura to sign, her staff went to Executive Secretary Parcasio and explained the situation.

Petitioner denied receiving a telegram from Asst. Special Prosecutor I Anna Isabel G. Aurellano ordering her to submit to the Office of the Special Prosecutor the original of the Employees Clearance of the DOT-ARMM issued in her name sometime on 22-23 August 2000.

On cross-examination, petitioner said that prior to her receipt of her salary, she believed that an Employees Clearance was necessary, and for this reason she had this document prepared by her staff. She said her Employees Clearance was always in the possession of Marie Cris, her assistant secretary. It was Marie Cris who

showed her the document twice.<sup>[31]</sup>

Atty. Jose I. Lorena, former ARMM Solicitor General, testified that he was familiar with the Memorandum dated 8 August 2000 issued by Gov. Misuari because the same was the product of consultation among him, Gov. Misuari and ARMM Executive Secretary Parcasio. He explained that this memorandum pertained only to outstanding cash advances. He added that an Employees Clearance was not a requirement and was not sufficient to comply with the directive contained in the memorandum, because what was required for the purpose of release of salaries was a credit notice from the Resident Auditors of the Commission on Audit.

On 16 February 2007, the defense formally offered its documentary exhibits<sup>[32]</sup> consisting of Exhibits 1 to 5, with sub-markings. The prosecution objected to the purpose for which Exhibit 1 was offered. The trial court admitted all the defense exhibits.<sup>[33]</sup>

On 7 August 2007, the Sandiganbayan rendered the assailed decision convicting petitioner of the crime charged in the information. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered finding accused Normallah A. Pacasum GUILTY beyond reasonable doubt of the offense charged in the Information and, with the application of the Indeterminate Sentence Law and without any mitigating or aggravating circumstance, hereby sentencing her to suffer the indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY OF *prision correccional* as minimum to EIGHT (8) YEARS and ONE (1) DAY of *prision mayor* as maximum with the accessories thereof and to pay a fine of TWO THOUSAND PESOS (P2,000.00) with costs against the accused.<sup>[34]</sup>

The Sandiganbayan found the signature of DOT-ARMM Supply Officer Laura Y. Pangilan appearing in the Employees Clearance of petitioner to have been falsified/forged. It did not give much weight on petitioner's defense denying she was the one who actually falsified her Employees Clearance by imitating the signature of Laura Pangilan and that she had no idea about the alleged falsification, because it was her assistant secretary, Marie Cris Batuampar, who worked for her clearance and the one who submitted the said clearance to the Office of the Regional Governor of the ARMM. The trial court found said denial unsubstantiated and ruled that while there was no direct evidence to show that petitioner herself "actually" falsified/forged the signature of Laura Pangilan, there were circumstances that indicated she was the one who committed the falsification/forgery, or who asked somebody else to falsify/forged the subject signature in her Employees Clearance. The Sandiganbayan added that considering it was petitioner who took advantage of and profited from the use of the falsified clearance, the presumption was that she was the material author of the falsification. Despite full opportunity, she was not able to rebut said presumption, failing to show that it was another person who falsified/forged the signature of Laura Pangilan, or that another person had the reason or motive to commit the falsification/forgery or could have benefited from the same.

The Sandiganbayan likewise did not sustain petitioner's contention that she did not stand to benefit from the falsification of her Employees Clearance and from the