



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case Nos. SB-12-CRM-
0104 to 0107

- versus -

ARNELITO SANORIA GARING,
Accused.

Present:
LAGOS, J., *Chairperson,*
CRUZ* and
MENDOZA-ARCEGA, JJ.

Promulgated:

May 17, 2017 *fed*

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DECISION

LAGOS, J.:

Accused Arnelito S. Garing is charged with four counts of violating Article 183 of the Revised Penal Code, otherwise known as the crime of Perjury. The Informations¹ against him read as follows:

In Criminal Case No. SB-12-CRM-0104:

That on or about 18th of July 2001 or sometime prior or subsequent thereto, in the Municipality of Cabucgayan, Province of Biliran, Philippines, and within the jurisdiction of this Honorable Court, above-

*As per Administrative Order No. 025-2017 dated February 1, 2017.

¹ Filed on April 12, 2012.

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named accused ARNELITO SANORIA GARING, a high-ranking public officer, being then the Mayor of the Municipality of Cabucgayan, Province of Biliran, and as such, has the duty and obligation under Republic Act Nos. 6713, and 3019, as amended, to submit and file his Statement of Assets, Liabilities and Net Worth (SALN), Disclosure of Business interests and financial connections and identification of relatives in the Government service every year, on or before the 30th day of April of the next calendar year, at the Office of the Ombudsman-Visayas, in such capacity and committing the offense in relation to office with deliberate intent, did then and there willfully, unlawfully and feloniously make untruthful statements upon material matter in his Statement of Assets, Liabilities and Net Worth as of December 31, 2000, dated July 18, 2001, and subscribe and sworn to on July 18, 2001, before Atty. Arleen Vic B. Ochondra, a person authorized to administer oath, which document is required under Republic Act Nos. 6713 and 3019, as amended, by declaring and stating therein the name of his spouse as Maurilina Oledan Garing, when in truth and in fact, accused very well knew that his legal wife is Generosa Arcenio Dosal, as their marriage has never been annulled or declared void ab initio by court of competent jurisdiction, thereby making false assertion in his Statement of Assets, Liabilities and Net Worth, to the detriment of public interest and service.

CONTRARY TO LAW.

In Criminal Case No. SB-12-CRM-0105:

That on or about 6th of February 2002 or sometime prior or subsequent thereto, in the Municipality of Cabucgayan, Province of Biliran, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ARNELITO SANORIA GARING, a high-ranking public officer, being then the Mayor of the Municipality of Cabucgayan, Province of Biliran, and as such, has the duty and obligation under Republic Act Nos. 6713, and 3019, as amended, to submit and file

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his Statement of Assets, Liabilities and Net Worth (SALN), Disclosure of Business interests and financial connections and identification of relatives in the Government service every year, on or before the 30th day of April of the next calendar year, at the Office of the Ombudsman-Visayas, in such capacity and committing the offense in relation to office with deliberate intent, did then and there willfully, unlawfully and feloniously make untruthful statements upon material matter in his Statement of Assets, Liabilities and Net Worth as of February 5, 2002, as of December 31, 2001, and subscribe and sworn to on February 6, 2002, before Atty. Arleen Vic B. Ochondra, a person authorized to administer oath, which document is required under Republic Act Nos. 6713 and 3019, as amended, by declaring and stating therein the name of his spouse as Maurilina Oledan Garing, when in truth and in fact, accused very well knew that his legal wife is Generosa Arcenio Dosal, as their marriage has never been annulled or declared void ab initio by court of competent jurisdiction, thereby making false assertion in his Statement of Assets, Liabilities and Net Worth, to the detriment of public interest and service.

CONTRARY TO LAW.

In Criminal Case No. SB-12-CRM-0106:

That on or about 29th of January 2003 or sometime prior or subsequent thereto, in the Municipality of Cabucgayan, Province of Biliran, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ARNELITO SANORIA GARING, a high-ranking public officer, being then the Mayor of the Municipality of Cabucgayan, Province of Biliran, and as such, has the duty and obligation under Republic Act Nos. 6713, and 3019, as amended, to submit and file his Statement of Assets, Liabilities and Net Worth (SALN), Disclosure of Business interests and financial connections and identification of relatives in the Government service every year, on or before the 30th day of April of the next calendar year, at the Office of

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the Ombudsman-Visayas, in such capacity and committing the offense in relation to office with deliberate intent, did then and there willfully, unlawfully and feloniously make untruthful statements upon material matter in his Statement of Assets , Liabilities and Net Worth dated January 29, 2003 as of December 31, 2002, dated July 18, 2001, and subscribe and sworn to on January 29, 2003, before Atty. Arleen Vic B. Ochondra, a person authorized to administer oath, which document is required under Republic Act Nos. 6713 and 3019, as amended, by declaring and stating therein the name of his spouse as Maurilina Oledan Garing, when in truth and in fact, accused very well knew that his legal wife is Generosa Arcenio Dosal, as their marriage has never been annulled or declared void ab initio by court of competent jurisdiction, thereby making false assertion in his Statement of Assets, Liabilities and Net Worth, to the detriment of public interest and service.

CONTRARY TO LAW.

In Criminal Case No. SB-12-CRM-0107:

That on or about 10th of February 2004 or sometime prior or subsequent thereto, in the Municipality of Cabucgayan, Province of Biliran, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ARNELITO SANORIA GARING, a high-ranking public officer, being then the Mayor of the Municipality of Cabucgayan, Province of Biliran, and as such, has the duty and obligation under Republic Act Nos. 6713, and 3019, as amended, to submit and file his Statement of Assets, Liabilities and Net Worth (SALN), Disclosure of Business interests and financial connections and identification of relatives in the Government service every year, on or before the 30th day of April of the next calendar year, at the Office of the Ombudsman-Visayas, in such capacity and committing the offense in relation to office with deliberate intent, did then and there willfully, unlawfully and feloniously make untruthful statements upon material matter in his

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Statement of Assets , Liabilities and Net Worth dated February 10, 2004 as of December 31, 2003, and subscribe and sworn to on February 10, 2004, before Atty. Arleen Vic B. Ochondra, a person authorized to administer oath, which document is required under Republic Act Nos. 6713 and 3019, as amended, by declaring and stating therein the name of his spouse as Maurilina Oledan Garing, when in truth and in fact, accused very well knew that his legal wife is Generosa Arcenio Dosal, as their marriage has never been annulled or declared void ab initio by court of competent jurisdiction, thereby making false assertion in his Statement of Assets, Liabilities and Net Worth, to the detriment of public interest and service.

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ANTECEDENT FACTS

On April 24, 2012, this Court found probable cause for the arrest of accused Garing.

On May 7, 2012, this Court issued a Hold Departure Order against the accused.

On June 5, 2012, MCTC Judge Ateneones Bacale of the 2nd MCTC of Biliran, Cabucgayan ordered the release of the accused after the latter posted the amount of Six Thousand Pesos as bail.

On June 6, 2012, the Biliran Police Provincial Office returned that Order of Arrest against the accused stating that the reason for the return is that accused Garing voluntarily submitted himself to the elements of the Cabucgayan Police Station on May 24, 2012 and further posted bail for his temporary liberty.

On June 8, 2012, accused Garing filed a Motion for Reinvestigation.

On September 10, 2012, this Court denied the motion for lack of merit. Accused filed a motion for reconsideration on September 28, 2012. On November 21, 2012, the same was likewise denied.

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On February 27, 2013, accused Garing was arraigned. He entered a plea of Not Guilty.

The parties agreed on only one stipulation of fact during the Pre-Trial, the identity of the accused as the person named as accused in the case.

EVIDENCE FOR THE PROSECUTION

Rosario Caras Azores

The prosecution presented its witness, Rosario C. Azores, for direct examination. She is an official in the Human Resource Management Office (HRMO) in the Mayor's Office of Cabucgayan, Biliran, holding the position of Administrative Officer IV. Among her functions consists of her being the custodian of the Statement of Assets, Liabilities and Net Worth (SALN) submitted by the employees of the Municipality of Cabucgayan, which includes SALN of the accused, Ex-Mayor Arnelito S. Garing. Azores received a subpoena from the Office of the Ombudsman requesting for the service record and SALN of Garing covering the period 2000 to 2003, and she complied with the same, presenting the said documents at the trial. Azores verified that the documents bear her signature just above her printed name on the stamped portion. Upon further questioning, the witness testified that:

She has known Garing for 21 years, the latter being appointed as Municipal Engineer for more than a year and then being elected as Municipal Mayor for 3 terms. By reason of this, his signature is present in all communication letters and office orders in the Municipal Hall of Cabucgayan, and she confirmed that the signatures written above the name Arnelito S. Garing in the presented documents were those of the former mayor.

On cross examination, she testified that one of her duties as Administrative Officer IV in the HRMO is to receive, transmit and compile the SALN. Indicated in the SALNs, except for the first one, is that the spouse of the accused is a certain Maurilina Oleda Garing, to which Azores replied that she knows her since the 1980s. Azores further affirmed that Maurilina is known in the community as the spouse of Arnelito Garing, and that she knows no other spouse of the accused other than Maurilina. Moreover, the defense counsel, Atty. Jose Aguila Grapilon, explained that his client cannot be charged with the crime of perjury since the supposed person authorized to administer the oath and notarize the SALN is in fact not a lawyer.

On redirect examination, Azores cannot confirm if Maurilina O. Garing was indeed married to Arnelito Garing.

Brenda Calungsud Seboa

The parties stipulated that:

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1. As an Administrative Officer V of the Records Section of the Office of the Ombudsman, Visayas, the witness receives and has custody of all the SALN of government employees in the Visayas Region; and
2. The Office of the Ombudsman, Visayas has copies and has custody of the 2000, 2001, 2002 and 2003 SALN of accused Arnelito Garing, which is the subject matter of the instant case.

Aurelia Ambil Alido

Direct Examination

The prosecution presented its witness, Aurelia A. Alido, for direct examination. She is from the Philippine Statistics Authority (formerly National Statistics Office) holding the position of Registration Officer III.

The parties stipulated on the following documents:

1. Negative Certificate of Marriage dated September 18, 2015 marked as Exhibit H for the prosecution.
2. The Certificate of No Marriage of Maurilina Badinas Oledan dated September 17, 2015 marked as Exhibit I for the prosecution; and
3. The Feedback Form dated August 31, 2013 together with the annexes attached therein marked as Exhibit J and series

Alido prepared a certification stating that there exists no Marriage Certificate between Arnelito Garing and Maurilina Garing. Likewise, the Certificate of No Marriage of Maurilina Oledan or Maurilina Oledan Garing yielded a negative result as per certification issued by the Philippine Statistics Authority. However, a Certification attesting as to whether or not the Decision of the Regional Trial Court, Branch 7 of Tacloban City on the Declaration of Presumptive Death was received by the NSO and was annotated in the Marriage Certificate of Arnelito Garing and Generosa Dosal. But as stated by Alido, this last certification came from the Local Civil Registrar and not from the Philippine Statistics Authority. Lastly, the feedback form submitted attests to the fact that the annotation done to the marriage certificate of Garing and Dosal did not come from the NSO.

On cross-examination, the defense counsel questioned the witness if the latter has the sole authority to examine and scrutinize the documents submitted to their office, to which Alido replied in the affirmative. The witness also pointed out that their office has yet to receive a transmittal pertaining to the Declaration of Presumptive Death from the court. Lastly, Alido stated that she may not know all the transmittals that were submitted to their office.

The prosecution filed its Formal Offer of Exhibits on December 18, 2015. The accused then filed his Comment/Objection to Plaintiff's Formal Offer of Exhibits on February 9, 2016.

On February 19, 2016, the Court resolved to admit:

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1. Exhibits E and G as the defense did not interpose any objection to their admission.
2. Exhibits A, B, C, D, H, I and J over the objection of the accused to the purposes for which said exhibits were offered, as the objection refers more to the probative value rather than the admissibility of the exhibits; and

The Court denied admission of Exhibit F for being mere hearsay, the same not having been testified to by the affiant nor by any prosecution witness.²

On April 4, 2016, accused filed a Motion for Leave of Court to File Demurrer to Evidence. However, on June 7, 2016, this Court denied accused's motion. Trial was set for the initial presentation of defense evidence.

EVIDENCE FOR THE ACCUSED

On June 28, 2016, accused filed a Motion to Admit Judicial Affidavit. The same was admitted on July 7, 2016. The defense presented its sole witness, the accused himself, on September 7, 2016.

Arnelito Sanoria Garing

Direct Examination

Under oath, accused Garing attested and validated the contents of the Judicial Affidavit that he submitted to the court as testimonial evidence. Included in and attached to the Judicial Affidavit were the following exhibits:

- On page 4, a statement for the record that the witness submitted and identified resolution dated February 20, 2007 of the Office of the Ombudsman-Visayas in the case of Spouses Glicerio S. Oledan and Elisa R. Oledan versus Arnelito Garing docketed as OMB-B-C-06-0551-K. This is marked as Exhibit "3."
- On page 5, a notation that the witness identified as Disposition Form dated August 27, 2006, marked as Exhibit "7."
- On page 6, a Resolution dated November 22 of Branch 7, Region 5, Family Court of Tacloban City.
- On page 10, the Resolution of the Office of the Ombudsman-Visayas exonerating Mayor Garing in its Preliminary Investigation.
- Exhibit "8", the Certification as to the termination of service of Dr. Jacinto Tan (private complainant in the current case)
- Exhibit "6", the Rejoinder to the Complaint.

² Records, Vol. I, p. 376.

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- Exhibit "1", the Counter Affidavit.
- Exhibit "11" issued by the Clerk of Court of Branch 37 of Caibiran Regional Trial Court, Biliran.

During the time that the alleged acts were committed, accused was the duly elected mayor of the Municipality of Cabucyan, Biliran. Allegedly, he violated Article 183 of the Revised Penal Code by naming Maurilina Garing, instead of Generosa Arsenio Dosal as his spouse in his SALN's for the years 2000, 2001, 2002 and 2003. Generosa used to be his wife. They were married on April 23, 1993. After they married, they lived together for a brief period of time. One day, she just disappeared. Their househelper said she just left. Accused has not seen her since. He last saw her during the first week of September 1994. Accused does not know why she left. He did, however, try to find her. He went to Tacloban to look for her among her relatives and friends. He also went to nearby municipalities in Leyte, Samar and Biliran. He also made inquiries to her friends and relatives in Manila by phone but due to financial constraints, he had to remain in Biliran to work until the end of 1995. In 1996, he went to Manila to search for her. He also searched in Cavite, Bulacan, Subic, Olongapo and other places. In 1997, he returned to Tacloban and sometime in 1998, to Cebu, Mactan, Mandaue and Talisay to continue searching for her among her relatives and friends. He even requested for the assistance of the NBI in locating her. Remigio Lavilla, Jr., the Special Investigator III of the NBI, submitted a Disposition Form³ stating that Generosa Dosal Garing's whereabouts could not be ascertained. All of accused's efforts to look for Generosa were in vain.

Years later, accused filed for a Petition for Declaration of Presumptive Death of Generosa Dosal Garing. The Family Court of Tacloban, through a Resolution⁴, declared Generosa presumptively dead. He filed the Petition to make sure that Generosa was no longer his wife. He only filed the Petition so many years after his wife's disappearance because he went to law school in 2004 and learned in his Family Law class that he needed a court declaration declaring a missing person to be presumed dead.

The accused named Maurilina Oledan as his spouse in his SALN's for the years 2000, 2001, 2002 and 2003 because he considered her to be his wife. They had already been living together and had children together. He also named her as his spouse in other documents because he did not want to be inconsistent. Accused claims that he did not lie when he declared Maurilina to be his spouse because he honestly believed she was. Accused claims that he had not make any willful or deliberate assertion of a falsehood in his SALNs. He also claims no malice or improper motive when he executed his SALN's. He did so because he only wanted to be transparent to his constituents. He was honest and open about his relationship with her and was not hiding anything. People already knew about his relationship with Maurilina Garing.

Accused knows private complainant personally. He dismissed the complainant from office as Municipal Health Officer when accused was still Municipal Mayor of Cabucgayan, Biliran. Through an Executive Order⁵, he dismissed the private complainant due to complaints of willful neglect and failure to discharge the functions of his office from a number of residents. The private complainant was very angry with him and continuously questioned his authority to dismiss him.

³ Exhibit 7.

⁴ Exhibit 3.

⁵ Exhibit 8.

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Cross Examination

During the cross-examination, Garing confirmed that during the years 2000 until 2003, the name Maurilina Oledan Garing was indicated in his 3 Statements of Assets, Liabilities and Net Worth (SALN) as his spouse, even without the existence yet of a Judicial Declaration of Nullity of his marriage to Generosa A. Dosal. The accused also narrated that he did not seek advice from lawyers when he prepared his SALNs and that it was his non-lawyer son, Agustin Ian Garing, who prepared his SALNs. Furthermore, Mayor Garing did not even bother to read the prepared SALNs.

In the redirect examination, Garing narrated that he recently got married to a third woman (a certain Ms. de Guzman from Nueva Ecija) and that a Judicial Declaration of Presumptive Death has already been issued by the court in 2006 before the accused married de Guzman.

Before the end of trial, Justice Rafael R. Lagos asked the accused if the latter recognized and treated Maurilina Oledan Garing as his wife when he filed his SALNs from 2000 to 2006. Mayor Garing replied in the affirmative. When the accused and Oledan parted ways in the latter part of 2006, the former did not declare any spouse in his subsequent SALNs until the end of his term in 2010.

On September 23, 2016, accused Garing filed his Formal Offer of Evidence. The prosecution filed its Comment/Opposition thereto on September 26, 2016.

On October 24, 2016, the Court resolved to admit the exhibits of the accused consisting of Exhibits 1, 3, 6, 7, 8, 10 and 11 with sub-markings, over the objection of the prosecution on the ground that the same were irrelevant, as the relevancy of the exhibits will be duly considered in the preparation of decision in this case. The Court, however, noted that the accused did not offer Exhibits 2, 4, 5 and 9.⁶

Both parties submitted their respective memoranda and the case was submitted for decision.

ISSUE

Whether accused Garing committed the felony of perjury as provided in Article 183 of the Revised Penal Code when he declared his spouse to be Maurilina Oledan Garing in his Statement of Assets, Liabilities and Network for the years 2000, 2001, 2002 and 2003.

FINDINGS OF FACT

The following facts are undisputed:

⁶ Records, Vol. II, p. 112.

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Accused Garing married Generosa Arcenio Dosal on April 23, 1993. (Exhibit J-2 and Accused Garing's testimony)

Accused Garing never married Maurilina Oledan. (Exhibits H and I and accused Garing's testimony)

Accused Garing declared Maurilina Oledan as his spouse in his SALN's for the years 2000, 2001, 2002 and 2003. (Exhibits A, B, C and D and accused Garing's testimony.)

Accused Garing filed a Petition for declaration of presumptive death of Generosa Dosal on December 19, 2005. (Exhibit J-6) The same was granted on November 22, 2006. (Exhibit J-4)

The Regional Trial Court Branch 37 of Naval, Biliran, on February 10, 2016, issued a Certification that Arleen Vic B. Ochondra was granted a commission to notarize public documents until the year 2002. (Exhibit 11)

THE PARTIES' ARGUMENTS

The prosecution claims that all the elements of Perjury under Article 183 of the Revised Penal Code are present in this case.

First, the prosecution asserts that the accused made a statement under oath upon a material matter. All four SALNs subject of the charge reflects on the second page a jurat which evidences that the same were all subscribed and sworn to. The issue lies upon the materiality of accurately reflecting the name of the legal spouse therein. The prosecution posits that materiality is demonstrated if the question posed is such that a truthful answer could help the inquiry, or a false response hinder it, and these effects are weighed in terms of potentiality rather than probability. Thus, in applying this gauge to specific situations, it is only the question, at the time of its asking, which is considered.

According to the prosecution, applying the foregoing disposition to the instant case, the indication of the name of the legal spouse, at the time of the SALN execution, is a material matter that needs be disclosed. Such information is required in order to properly reflect the extent of assets, liabilities and net worth of a public official. Non-disclosure thereof sets a dangerous precedent, as well as opens the sluice gates to abuse and utter concealment of various cognate crimes, including but not limited to nepotism, violation of the Anti-Dummy Law, accumulation of ill-gotten wealth and money laundering.

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Further, this issue of materiality, the prosecution alleges, should be read in the light of Section 2 of R.A. 6713 which explicitly underscores the State policy to promote a high standard of ethics in public service. According to the prosecution, the purported marital relations of accused with Maurilina Oledan Garing are not strictly common law, so to speak. At the time that she was declared as the spouse, the marriage of accused to Generosa Arcenio Dorsal was still subsisting. To uphold the unethical stand of the accused would tantamount to glorifying the frailties of a man who is predisposed to desecrate the Family Code by cohabiting with a woman not his wife and even bringing offspring from such illicit union, an utter defilement of the State policy upholding high standard of ethics in public service.

Second, the statement was made before a competent officer authorized to receive and administer oath. The prosecution posits that settled is the rule that generally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity. However, the prosecution adds, this presumption is not absolute and may be rebutted by clear and convincing evidence to the contrary. In this case, the accused himself even offered a documentary exhibit, a Certification issued by the Clerk of Court Branch 37 of the Regional Trial Court at Naval, Biliran, which bolsters the fact that the notary public to the four SALNs, while not a lawyer, was duly commissioned until the year 2002, and this covers the first three SALNs of this case. The prosecution admitted this exhibit. However, according to the prosecution, the accused was not able to controvert the presumption of regularity with respect to the fourth SALN by showing that for year 2003, the same notary public lacked notarial authority. Allegedly, a refutation cannot be inferred. The prosecution concludes that, as such, in accordance with existing jurisprudence, in the absence of any clear and convincing evidence to the contrary, the presumption of regularity stands.

Third, in the statement, the accused made a willful and deliberate assertion of falsehood. The prosecution posits that a mere assertion of a false objective fact, a falsehood, is not enough. The assertion must be deliberate and willful. Perjury being a felony by *dolo*, there must be malice on the part of the accused. Willfully means intentionally; with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intent that it should be received as a statement of what was true in fact. It is equivalent to knowingly. Deliberately implies meditated as distinguished from inadvertent acts. It must appear that the accused knows his statement to be false or as consciously ignorant of its truth.

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According to the prosecution, in the instant case, the accused is fully cognizant of the fact that his marriage with Generosa Dosal was still subsisting, yet he deliberately and willfully declared Maurilina Oledan as his spouse, not once, but for four consecutive years in his 2000 to 2003 SALNs. Perjury cannot be willful where the oath is according to belief or conviction as to its truth. A false statement of a belief is not perjury. Bona fide belief in the truth of a statement is an adequate defense. A false statement which is obviously the result of an honest mistake is not perjury.

Here, the prosecution says, there could not have been an honest mistake. To rectify the fact of misdeclaring another woman as the legal spouse in the SALNs, accused himself even filed a Verified Petition for Declaration of Presumptive Death of Generosa Dosal-Garing in the year 2005, docketed as SP. PROC. NO. 2005-12-72, which was resolved in 2006 by the Regional Trial Court (Special Court, Family Court) 8th Judicial Region, Buwagan ng Katarungan, Magsaysay Blvd., Tacloban City. Allegedly, the accused himself admitted the purpose of the filing of the Petition when he said that he filed the same to make sure that Generosa was no longer his wife. The prosecution alleges that this only shows that the accused knew fully well that his first marriage was subsisting at the time he executed the SALNs.

Fourth, the sworn statement containing the falsity is required by law. The prosecution states that the submission of a SALN is required by Section 17, Article XI of the 1987 Constitution, Section 8 of Republic Act No. 6713, the Code of Conduct and Ethical Standards for Public Officials and Employees and Section 34, Chapter 9, Book I of the Administrative Code of 1987.

Allegedly, as a former Municipal Mayor, the accused was bound by a more exacting code of morality and integrity as he was mandated to be an exemplar in upholding the law. By choosing to foist deliberate falsehoods for four (4) consecutive years in his 2000 to 2003 SALNs, he, allegedly, succeeded in utterly mocking the law.

The accused, on the other hand, alleges that the naming of the accused of another woman as his spouse in the SALNs was not a willful misrepresentation that constitutes perjury. On the contrary, accused alleges that the way he executed the SALN all the more shows his commitment to full transparency because he and Maurilina actually lived together and held themselves out to the public as husband and wife, with their children, at the time material to this case.



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First, accused claims that the name of one's spouse is not a material matter in the SALN. According to the accused, the purpose precisely of the SALN is to prove illegally acquired wealth, and not who the legal wife of the accused is or was. In prosecutions for perjury, a matter is material if it the main fact which was the subject of the inquiry or any circumstance which tends to prove that fact. The name of a public officer's spouse is, allegedly, not a material matter because the main fact which is subject of inquiry in a SALN is precisely the assets, liabilities and net worth only of the concerned public official, including, inter alia, his or her financial and business interests. Accused surmises that the SALN is a tool to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto. It is not a memorandum of the public officials' personal circumstances. Allegedly, the wrong spouse in his SALN being neither an asset or liability, it necessarily follows that the accused did not perjure himself in naming Maurilina as his spouse on his SALN.

Second, accused Garing claims that the person who notarized the SALNs of the accused as of December 31, 2002 and 2003, on January 29, 2003 and February 10, 2004, respectively, was not a competent officer authorized to administer oaths. According to the accused, the Certification dated February 10, 2016 issued by the Clerk of Court of Branch 37 of the Regional Trial Court at Naval, Biliran pertinently certifies "that Arleen Vic B. Ochondra of Cabucgayan, Biliran, was granted by this Court a Commission to Notarize public documents [only] until the year 2002 in accordance with the Supreme Court Circular granting special authority to Law Graduates/non-lawyers to notarize and administer oaths in areas where no lawyer(s) are available". Thus, the accused surmises, Ochondra was no longer a duly commissioned notary public, and a competent officer authorized to administer oaths, when the accused subscribed and swore before her, and she, in turn, notarized, the SALNs of the accused as of December 31, 2002 and 2003, on January 29, 2003 and February 10, 2004, respectively. Accused Garing concludes that, since the last two SALNs were not made under oath before a competent officer, the accused must, on this ground alone, necessarily be acquitted for the last two counts of perjury charged under the two Informations dated February 24, 2012, in Criminal Case Nos. SB-12-CRM-0106 and SB-12-CRM-0107, respectively.

Third, accused Garing adds that the prosecution failed to prove that he deliberately asserted a falsehood by naming Maurilina, instead of Generosa as his spouse in his SALNs. Accused claims that Maurilina was the spouse of the accused is not a falsehood because she and the accused actually lived together as husband and wife, although unsanctioned by the solemnities required by law. According to the accused, the SALNs required the accused to state merely the SPOUSE NAME, particularly that person's

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Surname, First Name and MI, as well as such person's POSITION and OFFICE, and did not ask to whom a public officer is lawfully or legally, or validly married to, or who the legal wife of the accused is or was. Accused claims that Spouse in the Binisaya-English, English-Binisaya Dictionary of Eduardo A. Makabenta, is deined as, or translates to, asawa; padis; upud-upod. Asawa, on the other hand, is defined as spouse; husband or wife; life's mate, while padis is defined as a pair couple; even number; and upod is defined as companion, chaperone; escort. According to the accused, this goes to show that the words "spouse", as understood in Waray-Waray or Binisaya, includes common-law marriages, created by the couple holding themselves out as man and wife and actually living as such, or a marriage recognized as valid at common law although not complying with the usual requirements for marriage or loosely, the situation of two unmarried people living together as husband and wife. Since the laws requiring the SALN do not themselves specifically or particularly define what a spouse is or give any indication that it should mean to whom someone is legally married, putting the name of a common law spouse, or perhaps even just a girlfriend or lover, as one's spouse therein, is not a deliberate assertion of falsehood in and of itself. Accused pleads that we should not draw hair-splitting distinctions between a couple whose cohabitation is sanctioned by sacrament or legal tie and another who are husband and wife de facto because in actual life no difference in relationship exists. Stated otherwise, accused asserts that he told no lie by naming Maurilina as his spouse on his SALNs because by doing so the accused did not say he contracted a subsequent bigamous marriage with Maurilina or that he was married to Maurilina. Instead, all the accused said was that Maurilina was his spouse, which can mean life's mate, companion or even chaperone. Accused claims that there is no showing that he acted with any improper motive in executing his SALNs the way he purportedly did, the presumption of good faith should still attach to him. Thus, it cannot be rightly concluded that he willfully and deliberately asserted falsehood in his SALN.

Fourth, accused Garing asserts that the Anti-Graft and Corrupt Practices Act and the Code of Conduct and Ethical Standard for Public Officials and Employees, the very laws which required the SALN mentions only the word "spouse" with no qualification. In contrast, in the Social Security Law and the Government Service Insurance System Act of 1997, the word "spouse" is immediately preceded and qualified by the words "legal" and "legitimate" or "legal dependent". According to the accused, the rule is where the law does not distinguish, neither should we.

Accused claims that the prosecution's argument that the name of the legal spouse is required in order to properly reflect the extent of assets, liabilities and net worth of a public official is not necessarily true because

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the property relations between the accused and Generosa may very well have been complete separation of property. More importantly, accused adds, the prosecution has not presented a scintilla of evidence tending to show that the accused misdeclared his spouse in his SALN to conceal or otherwise hide the true extent of his assets, liabilities, net worth, business interests, or relatives in government.

RULING

Perjury is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter. The elements of the felony are:

- (a) That the accused made a statement under oath or executed an affidavit upon a material matter.
- (b) That the statement or affidavit was made before a competent officer, authorized to receive and administer oath.
- (c) That in that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood.
- (d) That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.⁷

A mere assertion of a false objective fact, a falsehood, is not enough. The assertion must be deliberate and willful. Perjury being a felony by *dolo*, there must be malice on the part of the accused. Willfully means intentionally; with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intent that it should be received as a statement of what was true in fact. It is equivalent to knowingly. Deliberately implies meditated as distinguished from inadvertent acts. It must appear that the accused knows his statement to be false or as consciously ignorant of its truth.⁸

Perjury cannot be willful where the oath is according to belief or conviction as to its truth. A false statement of a belief is not perjury. *Bona fide* belief in the truth of a statement is an adequate defense. A false statement which is obviously the result of an honest mistake is not perjury.⁹

⁷ Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

⁸ Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

⁹ Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

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Knowledge by the accused of the falsity of his statement is an internal act. It may be proved by his admissions or by circumstantial evidence. The state of mind of the accused may be determined by the things he says and does, from proof of a motive to lie and of the objective falsity itself, and from other facts tending to show that the accused really knew the things he claimed not to know.¹⁰

A conviction for perjury cannot be sustained merely upon the contradictory sworn statements of the accused. The prosecution must prove which of the two statements is false and must show the statement to be false by other evidence than the contradicting statement. The rationale of this principle is thus:

Proof that accused has given contradictory testimony under oath at a different time will not be sufficient to establish the falsity of testimony charged as perjury, for this would leave simply one oath of the defendant as against another, and it would not appear that the testimony charged was false rather than the testimony contradictory thereof. The two statements will simply neutralize each other; there must be some corroboration of the contradictory testimony. Such corroboration, however, may be furnished by evidence *aliunde* tending to show perjury independently of the declarations of testimony of the accused.¹¹

The term material matter is the main fact subject of the inquiry, or any circumstance which tends to prove that fact, or any fact or circumstance which tends to corroborate or strengthen the testimony related to the subject of the inquiry, or which legitimately affects the credence of any witness who testified. In this case, a matter is material if it has a material effect or tendency to influence the Commission in resolving the motion of HTC one way or the other. The effects of the statement are weighed in terms of potentiality rather than probability.¹²

The sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.

¹⁰ Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

¹¹ Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

¹² Criste B. Villanueva v. Secretary of Justice (G.R. No. 162187, November 18, 2005).

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This element has been sufficiently established. As the prosecution stated, the submission of a SALN is required by Section 17, Article XI of the 1987 Constitution, Section 8 of Republic Act No. 6713, the Code of Conduct and Ethical Standards for Public Officials and Employees and Section 34, Chapter 9, Book I of the Administrative Code of 1987.

The accused made a statement under oath or executed an affidavit upon a material matter.

That accused Garing declared Maurilina to be his spouse in his SALNs for the years 2000, 2001, 2002 and 2003 under oath is undisputed. The only matter of contention was whether that declaration was material to the SALN.

In *Presidential Anti-Graft Commission (PAGC) and The Office of The President v. Salvador A. Pleyto* (March 23, 2011, G.R. No. 176058), the Supreme Court pronounced that:

The purpose of R.A. 6713 is to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest. xxx

Verily, the reason for the execution of the SALN by a public official such as accused Garing was to ensure that he was embodying the values of responsibility, integrity, competence, and loyalty and that he acts with patriotism and justice, leads a modest life and upholds public interest over his personal interest. The SALN could have served as a particularly useful tool in gauging whether accused Garing's lifestyle was commensurate or excessive as compared to his income. In this light, accurate information as regards the identity of his legal spouse is, as asserted by the prosecution, required in order to properly reflect the extent of assets, liabilities and net worth of a public official. The prosecution also makes a good point in stating that non-disclosure thereof sets a dangerous precedent, as well as opens the sluice gates to abuse and utter concealment of various cognate crimes, including but not limited to nepotism, violation of the Anti-Dummy Law, accumulation of ill-gotten wealth and money laundering.

Accused Garing's claim that the prosecution's argument that the name of the legal spouse is required in order to properly reflect the extent of assets, liabilities and net worth of a public official is not necessarily true

