



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

- versus -

LEANDRO V. MASIKIP and  
TOMAS N. AGUIRRE,  
Accused.

CRIM. CASE NO. SB-08-CRM-  
0375

For: Falsification of Public  
Document

Present:

QUIROZ, J., *Chairperson*  
CRUZ, J.  
JACINTO, J.

Promulgated on:

May 25, 2018

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DECISION

CRUZ, J.

In an *Information* for Falsification of Public Document defined and penalized under Article 171, paragraph (2) of the Revised Penal Code, accused Leandro Villaran Masikip (hereinafter; "Masikip") and Tomas Nonato Aguirre (Aguirre) are indicted as follows:

That on 20 June 2005, or sometime prior or subsequent thereto, in Pililla, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, above-named accused LEANDRO V. MASIKIP, a public officer, being a Municipal Mayor of Pililla, Rizal, acting in relation to his office and taking advantage of his official position, conspiring and confederating with TOMAS N. AGUIRRE, Vice-Mayor of the same municipality, did then and there willfully, unlawfully and feloniously falsify or cause to be falsified *KAUTUSAN[G] PAGLALAN BLG. 04, SERYE NG 2005*, appropriating the amount of P4,087,400.00 under the General Fund

*mv y*

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Supplemental Budget No. 4 CY 2005 of the Municipality of Pililla, Rizal, by causing it to appear that Members of the *Sangguniang Bayan* of Pililla, Rizal deliberated, passed and enacted said appropriation ordinance on 20 June 2005, when in truth and in fact they did not, to the damage and prejudice of public interest.

CONTRARY TO LAW.<sup>1</sup>

The Court issued a hold-departure order<sup>2</sup> against Masikip and Aguirre. Each of them posted a cash bond of ₱24,000.00<sup>3</sup> with the Court even before the latter made a judicial determination of probable cause for the issuance of warrant of arrest against them.<sup>4</sup>

Masikip and Aguirre filed their respective *Motions to Quash*<sup>5</sup> which the Court denied in its *Resolution*<sup>6</sup> dated 2 September 2009. The Court also denied the *Motion for Reconsideration*<sup>7</sup> filed by Masikip.<sup>8</sup>

On 3 December 2009, Masikip and Aguirre, assisted by a counsel *de officio* appointed by the Court but only for purposes of arraignment, were arraigned and pleaded "not guilty" to the charge.<sup>9</sup>

Masikip again filed an *Omnibus Motion*<sup>10</sup> for judicial determination of probable cause and/or to quash information/dismiss, which the Court denied in its *Resolution*<sup>11</sup> dated 3 February 2011. He filed a *Motion for Reconsideration*<sup>12</sup> of the said Resolution which was also denied by the Court.<sup>13</sup>

Upon motion<sup>14</sup> of the prosecution, the Court ordered the suspension of Masikip and Aguirre from office *pendente lite* for ninety (90) days.<sup>15</sup> The Court denied Masikip's *Motion for Reconsideration*<sup>16</sup> of such *Resolution*.<sup>17</sup>

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<sup>1</sup> Records, pp. 1-3. The Information filed with the Court on 31 July 2008 included accused Alejandro V. Amores, former Secretary to the *Sangguniang Bayan* of the Municipality of Pililla, Rizal. In view of his death on 22 September 2007, the Court, in its *Resolution* (Records, p. 112) dated 2 March 2009, ordered his name deleted from the Information and the case against him dismissed.

<sup>2</sup> *Id.*, p. 52.

<sup>3</sup> *Id.*, pp. 53-54.

<sup>4</sup> *Resolution* dated 10 July 2009, *Id.*, p. 135.

<sup>5</sup> *Id.*, pp. 138-142 (for Masikip) and pp. 145-149 (for Aguirre).

<sup>6</sup> *Id.*, pp. 162-166.

<sup>7</sup> *Id.*, pp. 172-175.

<sup>8</sup> *Resolution* dated 13 November 2009, *Id.*, pp. 182-188.

<sup>9</sup> *Order* dated 3 December 2009, *Id.*, p. 195.

<sup>10</sup> *Id.*, pp. 288-305.

<sup>11</sup> *Id.*, pp. 394-407.

<sup>12</sup> *Id.*, pp. 409-423.

<sup>13</sup> *Id.*, pp. 474-479.

<sup>14</sup> *Id.*, pp. 273-277.

<sup>15</sup> *Resolution* dated 25 June 2014, *Id.*, pp. 481-485.

### ISSUES

The issues to be resolved, as stated in the *Pre-Trial Order*<sup>18</sup>, are the following:

1. Whether or not *Kautusang Paglalaan Blg. 04, Serye ng 2005*, is a valid resolution, passed upon and deliberated by the members of the Sangguniang Bayan of Pililla, Rizal;
2. Whether or not accused Masikip and Aguirre falsified *Kautusang Paglalaan Blg. 04, Serye ng 2005*, by causing it to appear that the Members of the *Sangguniang Bayan* of Pililla, Rizal deliberated, passed and enacted the said appropriation ordinance;
3. Whether or not accused Masikip and Aguirre took advantage of their official position in committing the offense imputed against them.

### EVIDENCE FOR THE PROSECUTION

The prosecution presented the following witnesses, whose respective testimonies are summarized as follows:

(1) **Manuel B. Paz** (Paz), member of the *Sangguniang Bayan* of Pililla, Rizal (*Sangguniang Bayan*) and, at times material to the case, the Chairman of its Committee on Finance, Budget, and Appropriation.

During his direct examination,<sup>19</sup> Paz identified the *Complaint-Affidavit*<sup>20</sup> that he and four (4) other complainants filed with the Office of the Ombudsman against Masikip, Aguirre and Alejandro V. Amores (Amores). He received a notice<sup>21</sup> of the 20 June 2005 regular session dated 17 June 2005. On 20 June 2005, he attended the session together with nine (9) other members of the *Sangguniang Bayan*, including Aguirre as the Presiding Officer. During the session that started at 9:00a.m. and ended at 11:00a.m., all the items of the agenda stated in the notice were discussed and deliberated upon, but he could not remember *Kautusang Paglalaan Blg. 04, Serye ng 2005* (*Kautusang Paglalaan*) involving the amount of ₱4,087,400.00 as having been discussed and approved during the session.

<sup>16</sup> *Id.*, pp. 496-500.

<sup>17</sup> *Id.*, pp. 589-590.

<sup>18</sup> *Id.*, pp. 256-263.

<sup>19</sup> TSN, 10 September 2014, pp. 11-38.

<sup>20</sup> Exh. "A" and sub-markings.

<sup>21</sup> Exh. "B."

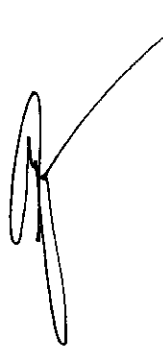
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He requested a copy of the minutes of the regular session held on 20 June 2005 from *Sangguniang Bayan* Secretary Amores, who gave him an unsigned copy of the minutes<sup>22</sup>. Several weeks later, he was surprised to learn that the *Kautusang Paglalaan* was being reviewed by the *Sangguniang Panlalawigan* of Rizal (*Sangguniang Panlalawigan*). Upon being informed of the existence of the *Kautusang Paglalaan*, he and the other *Sangguniang Bayan* members wrote a letter to the *Sangguniang Panlalawigan* through Vice-Governor Jestoni Alarcon requesting that the approval of the *Kautusang Paglalaan* be deferred. He did not have a copy of the said letter but its contents had been incorporated in the minutes of the joint committee hearing of the *Sangguniang Panlalawigan* held on 22 August 2005. During such joint committee hearing, both Aguirre and Amores admitted that *Kautusang Paglalaan* was never discussed and approved during the 20 June 2005 regular session of the *Sangguniang Bayan*. Thereafter, the *Sangguniang Panlalawigan* passed Resolution No. 05-100, series of 2015, declaring the *Kautusang Paglalaan* as inoperative.

On cross-examination,<sup>23</sup> Paz answered that he, along with three (3) other complainants, were present during the 20 June 2005 regular session of the *Sangguniang Bayan*. He did not witness the signing of the *Kautusang Paglalaan* by Masikip, Aguirre and Amores. He was also present during the 22 August 2005 joint committee hearing of the *Sangguniang Panlalawigan*. He only knew about the *Kautusang Paglalaan* two (2) weeks after the 20 June 2005 session when the *Sangguniang Panlalawigan* informed them that they were reviewing the *Kautusang Paglalaan*. He received the amount representing the increase in representation and transportation allowances as a *Sangguniang Bayan* member as provided in the *Kautusang Paglalaan*.

(2) **Imelda B. De Ocampo** (De Ocampo), Secretary to the *Sangguniang Bayan* of Pililla, Rizal.

In her direct examination<sup>24</sup>, De Ocampo testified that on 24 July 2014, she received a subpoena from the Office of the Ombudsman. She searched the 2005 office files of the *Sangguniang Bayan* and found the *Kautusang Paglalaan* but could not find the notice of session dated 17 June 2005 and the minutes of the session of the *Sangguniang Bayan* dated 20 June 2005. She issued a *Certification*<sup>25</sup>


A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a cursive name, is located on the left side of the page, with a line pointing towards the text above.

<sup>22</sup> Exh. "C."

<sup>23</sup> TSN, 27 October 2014, pp. 17-56.

<sup>24</sup> TSN, 27 October 2014, pp. 58-67.

<sup>25</sup> Exh. "H" and sub-marking.

A handwritten signature in black ink, consisting of a cursive name, is located in the bottom right corner of the page.

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dated 28 July 2014 in relation to the documents which she could no longer find.

On cross examination<sup>26</sup>, she confirmed that the certification she issued stated that no letter/notice of the session dated 17 June 2005 by Secretary Amores addressed to Councilor Anicia A. Martinez and Minutes of the Regular Meeting held on 20 June 2005 were found in the records of the *Sangguniang Bayan*.

(3) **Rosana R. Racho**<sup>27</sup> (Racho), Administrative Officer of the *Sangguniang Panlalawigan* of Rizal.

Racho's testimony was dispensed with after the parties stipulated on the existence, genuineness and due execution of Resolution No. 05-01<sup>28</sup> of the *Sangguniang Panlalawigan* and the *Certification*<sup>29</sup> that she issued.

(4) **Rolando P. Rivera** (Rivera), Member of the *Sangguniang Panlalawigan* of Rizal.

During the direct examination,<sup>30</sup> Rivera testified that in 2005, he had been the Chairman of the Committee on Rules and also a Member of the Committee on Appropriations of the *Sangguniang Panlalawigan*. On 22 August 2005, he conducted a Joint Committee Hearing presided by then *Sangguniang Panlalawigan* Member Noel Reyes and attended by all the Members of the Committee on Rules and the Committee on Appropriations, Mayor Masikip, Vice-Mayor Aguirre, some members of the *Sangguniang Bayan* of Pililla, Rizal and Municipality of Pililla's Budget Officer. The agenda for the joint committee hearing was the review of Budget Ordinance No. 4-2005 (*Kautusang Paglalaan Blg. 4, Serye ng 2005*). The issue on the alleged absence of discussion and enactment of the *Kautusang Paglalaan* was brought to the attention of former Vice-Governor Jestoni Alarcon through a letter written by some members of the *Sangguniang Bayan* of Pililla. During the joint committee hearing, Aguirre admitted that there was no deliberation on the *Kautusang Paglalaan* during the session of the *Sangguniang Bayan* on 20 June 2005 but that Aguirre signed the said ordinance. Thereafter, Mayor Masikip admitted that he endorsed the proposed *Kautusang Paglalaan* to the Office of the Vice-Mayor. *Sangguniang Bayan* Member Paz also testified that the *Kautusang Paglalaan* was never

<sup>26</sup> TSN, 27 October 2014, pp. 67-68.

<sup>27</sup> *Id.*, pp. 69-72.

<sup>28</sup> Exh. "G."

<sup>29</sup> Exh. "I."

<sup>30</sup> TSN, 20 January 2015, pp. 7-14.

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approved during their session held on 20 June 2005. Rivera identified the minutes of the joint committee hearing held on 22 August 2005 marked as Exhibit "E" and identified his signature on the minutes.

On cross examination,<sup>31</sup> he confirmed that the minutes of the joint committee hearing accurately reflected what had actually happened during the joint committee hearing conducted on 22 August 2005 at the *Sangguniang Panlalawigan*.

Upon inquiry of the court<sup>32</sup>, Rivera replied that he requested from Secretary Amores a copy of the minutes of the 20 June 2005 session of the *Sangguniang Bayan* but the latter did not provide him a copy. The *Sangguniang Panlalawigan* later declared the *Kautusang Paglalaan* inoperative based on Aguirre's admission that no session of the *Sangguniang Bayan* was held on 20 June 2005.

(5) **Benjamin DS. Pantaleon** (Pantaleon), incumbent *Sangguniang Bayan* Member of Pililla, Rizal.

On direct examination<sup>33</sup>, Pantaleon testified that he had been an incumbent *Sangguniang Bayan* Member from 2004 to 2007 and the Chairman of its Committee on Trade and Industry. On 17 June 2005, he received a notice from then *Sangguniang Bayan* Secretary Amores that there would be a regular session on 20 June 2005. He attended the session presided by Aguirre but the *Kautusang Paglalaan* was not part of the agenda. The *Sangguniang Bayan* never discussed and passed the *Kautusang Paglalaan* during such session. The *Sangguniang Panlalawigan*, upon review of the *Kautusang Paglalaan*, passed Resolution No. 05-100 declaring such ordinance inoperative. He also identified the *Complaint-Affidavit* marked as Exhibit "A" and his signature thereon as one (1) of the complainants.

The prosecution formally offered in evidence the following documentary exhibits:<sup>34</sup>

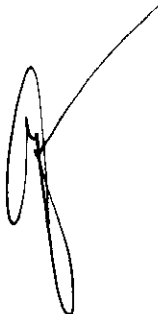



Exhibit	Description
"A," "A-1" to "A-5"	Complaint-Affidavit of Complainants Manuel Paz, Benjamin Pantaleon, Abraham Randy Dikit, Anicia Martinez and Reynato G. Juan dated 22 August 2005
"B"	Notice/Letter of Regular Session (to be held on 20 June 2005) of the <i>Sangguniang Bayan</i> of Pililla, Rizal dated 17 June 2005, issued by Alejandro V. Amores, <i>Sangguniang</i>

<sup>31</sup> *Id.*, pp. 15-29.

<sup>32</sup> *Id.*, pp. 30-32.

<sup>33</sup> TSN, 26 March 2015, pp. 10-21.

<sup>34</sup> Records, pp. 608-617.



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	<i>Bayan</i> Secretary, for Councilor Anicia A. Amores to be held on 20 June 2005
“C” and “C-1”	Minutes of the Regular Session of the <i>Sangguniang Bayan</i> of Pililla, Rizal held on 20 June 2005
“D”	<i>Kautusang Paglalaan Blg. 04 Serye ng 2005</i>
“E” and its sub-markings “E-1” to “E-2”	Minutes of the Joint Committee Hearing conducted by the Committee on Rules and Appropriation of the <i>Sangguniang Panlalawigan</i> of Rizal held on 22 August 2005, Re: <i>Kautusang Paglalaan Blg. 04, Serye ng 2005</i>
“G”	Resolution No. 05-100 of the <i>Sangguniang Panlalawigan</i> of Rizal adopted on September 12, 2005 declaring Supplemental Budget No. 4 ( <i>Kautusang Paglalaan Bilang 04, Serye ng 2005</i> ) of Pililla, Rizal inoperative
“H” and its sub-marking “H-1”	Certification dated July 28, 2014 issued by the Secretary of the <i>Sangguniang Bayan</i> of Pililla, Rizal certifying that said office has no records on file of the Letter/Notice of Session dated June 17, 2005 issued by the then <i>Sangguniang Bayan</i> Secretary Alejandro Amores, and the Minutes of the Regular Meeting/Session of the <i>Sangguniang Bayan</i> of Pililla held on June 20, 2005
“I”	Certification dated 9 September 2014 issued by Rosana R. Racho, Administrative Officer/Records Officer of the <i>Sangguniang Panlalawigan</i> of Rizal attesting that said office could not furnish a copy of the Minutes of the Joint Hearing conducted by the Committees on Appropriation and Rules of the <i>Sangguniang Panlalawigan</i> of Rizal held on 22 August 2005 since the records of the said office for the periods 1987 to 2007 were damaged by termites

The Court admitted in evidence Exhibit “A” and its sub-markings; Exhibit “B,” but only as part of the testimonies of prosecution witnesses Manuel B. Paz and Benjamin DS. Pantaleon; Exhibit “C,” but only as part of the testimony of prosecution witness Manuel B. Paz; Exhibit “D;” Exhibit “E” and sub-markings; Exhibit “G;” Exhibits “H” and sub-marking; and Exhibit “I,” for the purposes for which said exhibits were offered.<sup>35</sup>

### EVIDENCE FOR THE DEFENSE

Masikip and Aguirre through counsel manifested that they would no longer present any evidence for their defense.<sup>36</sup>

Both parties filed their respective Memoranda.<sup>37</sup>

Counsel for Aguirre filed with the Court a *Compliance*<sup>38</sup> informing the Court that Aguirre died on 12 November 2014. Due to

<sup>35</sup> *Resolution* dated 29 May 2015, *Id.*, p. 655.

<sup>36</sup> *Order* dated 3 August 2015, *Id.*, p. 661.

<sup>37</sup> *Id.*, pp. 672-699 (for the prosecution); *Id.*, pp. 663-671 (for Masikip).

<sup>38</sup> *Id.*, p. 705.

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his death, and applying Article 89 (1) of the Revised Penal Code, the Court dismisses the case against Aguirre.<sup>39</sup>

### THE FACTS

The facts relevant to the charge of Falsification of Public Document against Masikip, based on the records, are as follows:

On 17 June 2005, Amores, then the Secretary to the *Sangguniang Bayan* of Pililla, Rizal, sent copies of the Notice<sup>40</sup> of regular session on 20 June 2005 to the members of the *Sangguniang Bayan*.

On 20 June 2005, the *Sangguniang Bayan* held its regular session from 9:00a.m. to 11:00a.m. The following nine (9) out of eleven (11) members attended the session: Vice-Mayor and Presiding Officer Aguirre, Members Benjamin DS. Pantaleon, Susano M. Pendon, Manuel V. Paz, Florentino L. Anero, Anicia A. Martinez, Jaime C. Paz, Reynato G. Juan and Noel P. Corpuz.

Masikip, then Municipal Mayor, Aguirre, then Municipal Vice-Mayor and Amores, then *Sangguniang Bayan* Secretary, signed *Kautusang Paglalaan Blg. 04, Serye ng 2005 (Kautusang Paglalaan)*<sup>41</sup>, entitled "KAUTUSANG NAGLALAAAN NG APAT NA MILYON WALUMPUT PITONG LIBO APAT NA DAANG PISO (P4,087,400.00) SA ILALIM NG GENERAL FUND SUPPLEMENTAL BUDGET NO. 4, C.Y. 2005" and allegedly enacted on 20 June 2005. In the said ordinance, appropriations were made for the Representation and Transportation Allowances from April to December 2005, Educational Assistance, Terminal Leave Benefits, Non-Office Expenditures, Calamity and Development Funds and Capital Outlay for the Office of the Mayor (firefighting equipment and accessories and land), all sourced from the borrowings from Land Bank, the increase in Internal Revenue Allotment (IRA) and savings from Personal Services.

Several weeks later, *Sangguniang Bayan* Member Manuel B. Paz (Paz) and the other members of the *Sangguniang Bayan* were surprised to learn that the *Sangguniang Panlalawigan* of Rizal was reviewing a certain *Kautusang Paglalaan Blg. 04, Serye ng 2005*. Paz, together with the other *Sangguniang Bayan* members, wrote a

<sup>39</sup> Article 89. "How Criminal Liability is Totally Extinguished. - Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment."

<sup>40</sup> Exh. "B."

<sup>41</sup> Exh. "D."



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letter to the *Sangguniang Panlalawigan*, through Vice-Governor Jestoni Alarcon, to defer the approval of the said *Kautusang Paglalaan* that they claimed was never discussed, deliberated and passed upon by the *Sangguniang Bayan*.

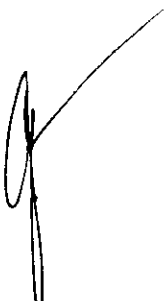
On 22 August 2005, the Committees on Rules and Appropriations of the *Sangguniang Panlalawigan* held a joint hearing to review the *Kautusang Paglalaan* attended by, among others, Masikip, Aguirre, Amores and some members of the *Sangguniang Bayan*.

Based on the minutes<sup>42</sup> of the joint committee hearing, Aguirre admitted: that on 22 June 2005, his office received a letter from Masikip endorsing the immediate enactment by the *Sangguniang Bayan* of the *Kautusang Paglalaan* involving the amount of ₱4,087,400.00; that the minutes of the 20 June 2005 regular session had yet to be signed by the *Sangguniang Bayan* members; and that no discussion and deliberation on the *Kautusang Paglalaan* took place during such regular session and even thereafter. In the same hearing, Masikip confirmed that he endorsed as urgent the enactment of the *Kautusang Paglalaan* to the *Sangguniang Bayan*.

On 25 August 2005, *Sangguniang Bayan* Members Abraham Randy C. Dikit, Anicia A. Martinez, Manuel V. Paz, Reynato G. Juan and Benjamin DS. Pantaleon filed with the Office of the Deputy Ombudsman for Luzon their *Complaint-Affidavit*<sup>43</sup> against Masikip, Aguirre and Amores for Falsification of Public Document.

On 15 September 2005, the *Sangguniang Panlalawigan* passed Resolution No. 05-100<sup>44</sup> which rendered inoperative *Kautusang Paglalaan Blg. 4, Serye ng 2005* for failure to conform with the procedural requirements set forth in R.A. No. 7160.

The Office of the Ombudsman found probable cause to charge Masikip, Aguirre and Amores with Falsification of Public Document defined and penalized under Art. 171 (2) of the Revised Penal Code.<sup>45</sup> On 31 July 2008, the Office of the Ombudsman filed the *Information*<sup>46</sup> with the Court.


  
42 Exh. "E."

43 Exh "A."

44 Exh. "G."

45 *Resolution* dated 4 February 2008. Records, pp. 11-17.

46 Records, pp. 1-3.



DISCUSSION

Article 171 paragraph (2) of the Revised Penal Code provides:

Article 171. Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of *prision mayor* and a fine not to exceed P5,000 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:

x x x

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate[.]

The elements of the crime of Falsification of Public Document under Article 171 (2) of the Revised Penal Code are the following:

- (1) That the offender is a public officer, employee or notary public.
- (2) That he takes advantage of his official position.
- (3) That he falsifies a document by causing it to appear that persons have participated in any act or proceeding.
- (4) That such person or persons did not in fact so participate in the proceeding.<sup>47</sup>

The first element of the crime of Falsification of Public Document is clearly present in this case. At the time material to the case, Masikip was the incumbent Municipal Mayor of the Municipality of Pililla, Province of Rizal.

As regards the second element, 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.<sup>48</sup>

In *Regidor, Jr. v. People*,<sup>49</sup> the Supreme Court explained that the mayor participates in making or preparing or otherwise intervening in the preparation of ordinances and resolutions of the *sangguniang bayan/panlungsod* by virtue of his/her veto powers as provided in the Local Government Code.<sup>50</sup> The Supreme Court held

<sup>47</sup> *Goma v. Court of Appeals*, 576 SCRA 1, 9 (2009).

<sup>48</sup> *Galeos v. People*, 642 SCRA 485, 506 (2011).

<sup>49</sup> 579 SCRA 244 (2009).

<sup>50</sup> Section 180 of Batas Pambansa Blg. 337, known as the Local Government Code of 1983, now Sections 54 and 55 of the Local Government Code of 1991 (Republic Act No. 7160).

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that "the concurrence of a local chief executive in the enactment of an ordinance or resolution requires not only a flourish of the pen, but the application of judgment after meticulous analysis and intelligence as well."<sup>51</sup>

Moreover, under Section 444(b)(1)(iv) of R.A. No. 7160, the municipal mayor has the power to initiate and propose legislative measures to the *sangguniang bayan*. Evidently, the mayor can participate in the preparation of legislative measures such as an ordinance. Thus, in the case at bar, the second element is present.

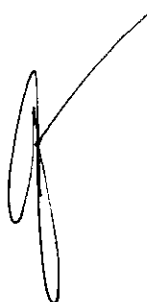
As to the third and fourth elements of the crime charged, the *Information* provides that Masikip and the other accused:

x x x willfully, unlawfully and feloniously falsif[ied] or cause[d] to be falsified *KAUTUSAN[G] PAGLALAN BLG. 04, SERYE NG 2005* x x x by causing it to appear that Members of the *Sangguniang Bayan* of Pililla, Rizal deliberated, passed and enacted said appropriation ordinance on 20 June 2005, when in truth and in fact they did not x x x.

To prove that Masikip belatedly endorsed to the *Sangguniang Bayan* the urgent passage of the *Kautusang Paglalaan*, the prosecution referred to a portion of the minutes of the joint committee hearing of the *Sangguniang Panlalawigan* marked as Exhibit "E" that allegedly quoted the contents of Masikip's letter and which reads as follows:

VM Aguirre: "Ah, magandang hapon po sa inyong lahat, Vice Governor, sa mga Bokal na narito; sa mga ibang panauhin sa aking mga kasamang Konsehal, kay Mayor at saka iyong iba pong kawani ng Munisipyo ng Pililla. Noon pong June 22, 2005, may dumating po sa aking tanggapan na galing po sa aming butihing Mayor, Mayor Leandro V. Masikip"

(*Binasa ang liham*)



"Sir, we are submitting herewith the Proposed General Fund Supplemental Budget No. 4 Calendar year 2005 amounting to Four Million Eighty Seven Thousand Four Hundred (P4,087,400.00). The approval of the said budget is demanded by public interest, we are requesting the urgent and immediate enactment of the said budget.

<sup>51</sup> *Supra*, note 49, at 265.



Very truly yours,

Leandro V. Masikip<sup>52</sup>

The prosecution also relied on the statement made by Aguirre during the joint committee hearing to prove that Masikip endorsed to the *Sangguniang Bayan* the passage of the *Kautusang Paglalaan* two (2) days after its regular session on 20 June 2005, quoted as follows:

BOKAL RIVERA: "Mr. Vice Mayor, *kanina mayroong isang bumanggit sa inyo na nagpadala ang Office of the Mayor ng isang letter for the approval of the said Supplemental Budget No. 04, mayroon pong ipinadala ang ating butihing Mayor na request for the approval sa Sangguniang Bayan?*"

VM AGUIRRE: "*Opo, iyon pong sulat ng Mayor late na po ng dumating iyon, nagkaroon po kami ng June 20 session na hindi po nakasama sa agenda iyon, dahil June 22 to ng dumating iyong kahilingan na iyon at iyon pong aming susunod na session ah, sinuspinde ko po ang session dahil kagaya po ng nasabi ko kanina humaharap kami sa kapistahan at ang naatasan po na humawak ng kapistahan kaming mga Konsehal, naging abala po ako noong panahong iyon.*"<sup>53</sup>

However, the prosecution failed to present the original of the alleged letter-endorsement of Masikip. Such omission violates the best evidence rule, which provides that: "[w]hen the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself x x x."<sup>54</sup> This rule, however, admits of certain exceptions, namely:

- a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
- c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
- d) When the original is a public record in the custody of a public officer or is recorded in a public office.<sup>55</sup>

<sup>52</sup> Exh. "E," p. 9.

<sup>53</sup> *Id.*, p. 16.

<sup>54</sup> Section 3, Rule 130, Rules of Court.

<sup>55</sup> *Id.*

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The original of the document is one the contents of which are the subject of inquiry.<sup>56</sup> This alleged letter of endorsement is crucial to the theory of the prosecution that Masikip conspired with Aguirre and Amores in falsifying the *Kautusang Paglalaan*. As stated in its *Memorandum*<sup>57</sup>, the prosecution posited that the following overt acts allegedly committed by Masikip and the other accused show their conspiracy to falsify such document:

1. Accused Masikip pushed for the passage of the subject ordinance and endorsed it two days after the scheduled session of the sanggunian.
2. Accused Aguirre, having received the instructions of accused Masikip ordered for the fabrication of the ordinance since the sanggunian was no longer in session.
3. Accused Amores produced the ordinance as instructed and signed the same.
4. Accused Aguirre likewise signed the ordinance.
5. Accused Masikip approved the ordinance despite knowledge that the sanggunian did not enact it.

The prosecution cannot present secondary evidence of the alleged contents of Masikip's letter of endorsement to the *Sangguniang Bayan* without complying with the provisions of Section 5, Rule 130 of the Rules of Court that reads as follows:

Section 5. When original document is unavailable. — When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.

Before a party is allowed to adduce secondary evidence to prove the contents of the original, the offeror must prove the following: (1) the existence or due execution of the original; (2) the loss and destruction of the original or the reason for its non-production in court; and (3) on the part of the offeror, the absence of bad faith to which the unavailability of the original can be attributed. The correct order of proof is as follows: existence, execution, loss, and contents.<sup>58</sup>

<sup>56</sup> Section 4 (a), Rule 130, Rules of Court.

<sup>57</sup> Records, pp. 672-699.

<sup>58</sup> *Country Bankers Insurance Corporation v. Lagman*, 653 SCRA 765, 777 (2011).


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To conform with the foregoing order of proof, the prosecution should have proven the loss, destruction or the non-production of the original of the said letter-endorsement before presenting in evidence the recital of its alleged contents in the minutes of the joint committee hearing of the *Sangguniang Panlalawigan*. Unfortunately, the prosecution failed to do so. Even in the *Certification* issued by its witness, Imelda B. De Ocampo, secretary to the *Sangguniang Bayan* dated 28 July 2014 marked as Exhibit "H" and the *Certification* issued by witness Rosana R. Cacho, Administrative Officer III of the *Sangguniang Panlalawigan* dated 9 September 2014, marked as Exhibit "I," no mention was made regarding the whereabouts of the alleged letter-endorsement of Masikip. The prosecution cannot simply rely on the alleged contents of the letter as indicated or recited in the minutes of the joint committee hearing without sufficiently explaining why the original copy of the letter was not presented in Court. This glaring omission of the prosecution to satisfy the best evidence rule is fatal to its cause.

Aside from the recital of the alleged contents of Masikip's letter-endorsement as proof that he belatedly endorsed the passage of the *Kautusang Paglalaan*, the prosecution also leans on the so-called admission made by Masikip that he sent an endorsement to the *Sangguniang Bayan* during the joint committee hearing held on 22 August 2005 at the *Sangguniang Panlalawigan*, as shown by the following relevant portion of the minutes of the joint committee hearing:

BOKAL REYES: "*Puwede po bang tawagan natin ang ating Punong Bayan ng bayan ng Pililla, si Mayor Masikip. Kasi po ang sabi ni Vice Mayor ay mayroon po kayong communication na ipinadala sa Sangguniang Bayan regarding Supplemental Budget Ordinance No. 4, tama po ba? Puwede po bang pakisalaysay n'yo sa amin iyon?*"

MAYOR MASIKIP: "*Mayroon po akong ipinadalang indorsement sa kanila regarding doon sa Four Million, ini-indorse ko po sa Sangguniang Bayan for approval. So, dumating po sa akin iyong resolution pirmado na iyong mga sina Vice Mayor at si Sec. kaya po pinirmahan ko na iyong resolution doon sa Kautusang Paglalaan. Mayroon po akong indorsement.*"<sup>59</sup>



However, this admission, by itself, never proved the contents of the letter-endorsement. While Masikip admitted that he sent an endorsement to the *Sangguniang Bayan*, nowhere in his statement did he admit that he submitted the letter to the *Sangguniang Bayan* belatedly, or two (2) days after the regular session was held on 20

<sup>59</sup> Exh. "E," pp. 12-13.



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June 2005. If at all, such admission only proved that he performed his duty as municipal mayor to “initiate and propose legislative measures to the *sangguniang bayan*.”<sup>60</sup> The prosecution failed to overcome the disputable presumption that official duty has been regularly performed.<sup>61</sup> In the absence of clear and convincing evidence consisting of the original of the alleged letter-endorsement itself, the prosecution failed to prove that such letter, if it really exists, was belatedly filed with the *Sangguniang Bayan*.

Also, the admission made by Aguirre that he received Masikip’s letter-endorsement on 22 June 2005, which was allegedly filed with the *Sangguniang Bayan* after the 20 June 2005 session, will not cure the defect in the requirement of the best evidence rule. Since the date when the letter was received was vital in determining the issue of whether or not Masikip submitted the letter of endorsement two (2) days after the 20 June 2005 regular session of the *Sangguniang Bayan*, the best evidence is the letter itself which may show the date when the same was filed, e.g., rubber stamp “Received” with date of receipt. However, as discussed above, the prosecution did not even explain why it failed to produce such letter in Court.

Going to the alleged minutes of the session of the *Sangguniang Bayan* marked as Exhibit “C,” the Court does not ascribe any iota of evidentiary value thereon due to its being unsigned. These so-called minutes are unreliable proof of the proceedings that transpired as contained therein.

As regards the notice of session dated 17 June 2005 and marked as Exhibit “B,” the Court observes the following:

(1) that the addressee of the notice or letter, Anicia A. Martinez, a member of the *Sangguniang Bayan* and one of the complainants in this case, was not presented by the prosecution. Instead, the prosecution presented Paz and Pantaleon, also members of the *Sangguniang Bayan*, who testified that they received copies of the same notice;

(2) that assuming *arguendo* that the notice received by Anicia A. Martinez was the same copy received by Paz and Pimentel, there was no explanation on who made the handwritten entries in such notice marked as Exhibit “B.” There were insertions made on the copy of the notice that read: “Jimmy Melendres; German Vidanes – Kagawad; Lady (?) Malusog.” A cursory comparison between said notice of session and the purported unsigned minutes of the session

<sup>60</sup> Section 444(b)(1)(iv), R.A. No. 7160.


<sup>61</sup> Section 3 (m), Rule 131, Rules of Court.



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reveals that the aforesaid insertions were the names of the individuals who were the subject of the resolutions contained in the unsigned minutes. This leads the Court to conclude that the notice of session is not a complete calendar of business of all that transpired during the 20 June 2005 session of the *Sangguniang Bayan*. The Court entertains doubt that the notice is complete in itself, considering the handwritten insertions in some items. The Court would go so far as to state that the item regarding the *Kautusang Paglalaan* could have been inadvertently omitted but it does not follow that it was not discussed and passed upon by the *Sangguniang Bayan* during its session held on 20 June 2005.

Moreover, Article 107 (e) of the Implementing Rules and Regulations of R.A. No. 7160 provides that “[a]ny legislative matter **duly certified by the local chief executive as urgent, whether or not it is included in the calendar of business**, may be **presented and considered by the body at the same meeting** without need of suspending the rules.” Therefore, the law and rules allow the introduction to the session of the *sanggunian* of any legislative measure certified by the mayor as urgent and it need not be included in the calendar of business. Granting *arguendo* that Masikip had endorsed the passage of the *Kautusang Paglalaan* and certified the same as urgent, it need not be mentioned in the calendar of business of the 20 June 2005 session of the *Sangguniang Bayan*.

Even the so-called admissions made by Aguirre and Amores during the joint committee hearing of the *Sangguniang Panlalawigan* cannot be used by the prosecution as evidence against Masikip. Section 28 of Rule 130 of the Rules of Court states: “The rights of a party **cannot be prejudiced by an act, declaration**, or omission of **another**, except as hereinafter provided.” One of the exceptions is the admission by conspirator covered by Section 30 of the same rule. The provision reads: “The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act of declaration.”



In order that the admission of a conspirator may be received against his co-conspirator, it is necessary (a) that the conspiracy be first proved by evidence other than the admission itself; (b) that the admission relates to the common object; and (c) that it has been made while the declarant was engaged in carrying out the conspiracy.<sup>62</sup> Extrajudicial declarations of a co-conspirator made before the formation of the conspiracy or **after the accomplishment**

<sup>62</sup> *People v. Cachuela*, 698 SCRA 161, 174-175 (2013).






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of its object, are inadmissible in evidence as against the other co-conspirator, on the ground that the accused in a criminal case has the constitutional right to be confronted with the witnesses against him and to cross-examine them.<sup>63</sup> Hence, assuming *arguendo* that there was conspiracy among the accused, the purported admission of Aguirre during the 22 August 2005 joint committee hearing that Masikip sent to his office an endorsement letter for the enactment of the *Kautusang Paglalaan* two (2) days after the 20 June 2005 *Sangguniang Bayan* session, cannot be used as evidence against Masikip.

This leaves the prosecution with only the testimonial evidence of their witnesses Manuel B. Paz and Benjamin DS. Pantaleon, members of the *Sangguniang Bayan* who testified that they were present during its session held on 20 June 2005, to prove that no discussion and enactment of the subject *Kautusang Paglalaan* took place during such session.

But will these testimonial evidence prevail against the documentary evidence consisting of the subject *Kautusang Paglalaan*?


The Court answers in the negative.



As a general rule, testimonial evidence cannot prevail over documentary evidence.<sup>64</sup> Although the above-named witnesses for the prosecution testified that no such discussion and enactment of the *Kautusang Paglalaan* transpired, such declaration cannot prevail over the contents of the *Kautusang Paglalaan* that show that a valid enactment thereof took place. The Court finds insufficient the bare assertion of prosecution witnesses Manuel B. Paz and Benjamin DS. Pantaleon that no such discussion and enactment of the *Kautusang Paglalaan* took place during the regular session of the *Sangguniang Bayan* on 20 June 2005 to overcome the presumption that the *Kautusang Paglalaan*, on its face, was validly enacted. Under the equipoise rule, where the evidence on an issue of fact is in equipoise or there is doubt on which side the evidence preponderates, the party having the burden of proof, which in this case is the prosecution, loses. The equipoise rule applies if, as in the present case, the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, for then the evidence

<sup>63</sup> *People v. Cui*, 314 SCRA 153, 168 (1999). Emphasis supplied.

<sup>64</sup> *Jarantilla, Jr. v. Jarantilla*, 636 SCRA 299, 317 (2000).



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does not fulfill the test of moral certainty, and does not suffice to produce a conviction.<sup>65</sup>

What further bolstered Masikip's defense that he has no involvement in the alleged falsification of the *Kautusang Paglalaan* was the statement made by Amores clearly exculpating him. The relevant portion of the minutes of the joint committee hearing reads:

BOKAL REYES: *Ngayon, because this is an ordinance you prepare, this document na pirmado n'yo po at pirmado ng ating Vice Mayor. Now, ang procedure po natin sa Sangguniang Bayan, this will be approved by the Sangguniang Bayan and will be pagtitibayin po ng ating Mayor. Sino po ang nagpapirma nitong dokumentong ito sa ating Punong Bayan?*

SB SECRETARY AMORES: *Ah, iyon pong aming Clerk, si Annie po.*

BOKAL REYES: *Siya po ang nagdala sa Punong Bayan?*

SB SECRETARY AMORES: *Sa Punong Bayan po.*

BOKAL REYES: *Ang susunod ko pong tanong, ipinaliwanag n'yo po ba sa Punong Bayan na walang nangyaring diskusyon o walang nangyaring pag-uusap tungkol sa Kautusan Blg. 04-2205 bago n'yo po pinalagdaan ang certification na ito that was officially submitted to the Sangguniang Panlalawigan?*

SB SECRETARY AMORES: *E, iyong bata po kasi ang nagdala e, **hindi ko po naipaliwanag sa ating Punong Bayan.***

BOKAL REYES: *So, ang ibig n'yo pong sabihin...*

SB SECRETARY AMORES: ***Kaya hindi po alam ng Punong Bayan na ah, walang naganap na session.***

BOKAL REYES: ***Alam po ba ng Punong Bayan na walang naganap na session?***

SB SECRETARY AMORES: ***Wala pong kaalam-alam ang Punong Bayan.***

BOKAL REYES: *So, ang ibig n'yo pong sabihin under the instruction of the Vice Mayor pinrepare n'yo itong document na ito, you connived within yourselves and **you let the Municipal Mayor sign[ed] this document without him knowing that there wasn't a session held? Na hindi po pala diniscuss ito sa session?***

SB SECRETARY AMORES: *Opo, ariyan nga po, iyong sinabi nga po ng Vice Mayor tatal inadmit na rin n'ya iyon, tatal sinabi na n'ya*

<sup>65</sup> *Bernardino v. People*, 506 SCRA 237, 252 (2006).

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*e nagkaroon ho ng caucus at katunayan nga po itong aming kuwan...tinanong ko pa rin ho siya, itong Chairman ng Appropriations sa amin si Kon. Manny Paz. Siya man ay sumang-ayon din ng kuwan noon. Tinanong ko ho siya noon. Iyan anya ay dahil wala ang mga Konsehal at busy e, dahil kailangan nila itong pera sa nalalapit na fiesta saka bayan ng Pililla e, inutusan nila akong kuwan, gawin iyang kuwan, yang ordinansa.<sup>66</sup>*

In *People v. Corpuz*<sup>67</sup>, the Supreme Court held that the admission of the accused that they committed the crime creates a serious doubt as to the guilt of their co-accused. Thus:

The **admissions** of the defendants Romeo Corpuz, Hernanie Soto, Victor Bangayan and Felipe Alcera should at least create a **serious doubt on the guilt of their co-accused**. It has been held that the confession of a co-accused that he alone committed the crime is a circumstance that may be taken to engender **great doubt as to alleged guilt of the other accused**.<sup>68</sup>

Taking into account the probative value of the evidence for the prosecution, the Court finds that the prosecution miserably failed to prove beyond reasonable doubt that Masikip committed falsification in preparing and signing the *Kautusang Paglalaan*. Thus, the third and fourth elements of the crime with which Masikip was charged were not sufficiently proven to exist.

The burden of proof rests with the prosecution, which must rely on the strength of its case rather than on the weakness of the case for the defense. Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment, is indispensable to overcome the constitutional presumption of innocence.<sup>69</sup> For failure of the prosecution to prove his guilt beyond reasonable doubt, Masikip is entitled to an acquittal.



**WHEREFORE**, premises considered, the Court hereby finds LEANDRO VILLARAN MASIKIP **NOT GUILTY** of the crime of Falsification of Public Document defined and penalized under Article 171 (2) of the Revised Penal Code and **ACQUITS** him on the ground of reasonable doubt in Criminal Case No. SB-08-CRM-0375. The Court orders the **RELEASE** of his bail bond, subject to the usual accounting and auditing rules and procedures. The Court also **LIFTS** and **SETS ASIDE** the hold-departure order against him.

<sup>66</sup> Exh. "E," pp. 17-18. Emphasis supplied.


<sup>67</sup> 102 SCRA 674 (1981).

<sup>68</sup> *Id.*, at 687. Emphasis supplied.

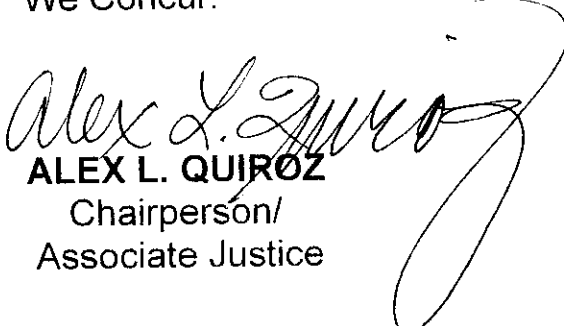
<sup>69</sup> *Corpuz, Jr. v. People*, 810 SCRA 345, 360 (2016).



**SO ORDERED.**

  
**REYNALDO P. CRUZ**  
Associate Justice

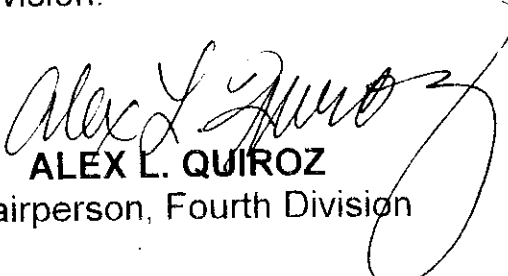
We Concur:

  
**ALEX L. QUIROZ**  
Chairperson/  
Associate Justice

  
**BAYANI H. JACINTO**  
Associate Justice

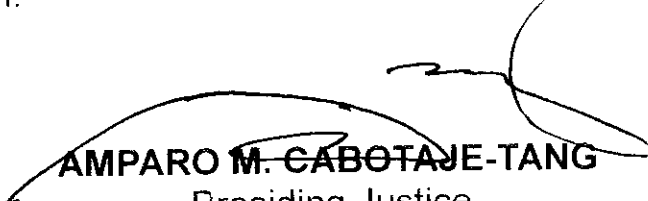
**ATTESTATION**

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEX L. QUIROZ**  
Chairperson, Fourth Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice