



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 26 June 2018.

Present:

<i>MA. THERESA DOLORES C. GOMEZ-ESTOESTA</i>	----- Chairperson
<i>ZALDY V. TRESPESSES</i>	----- Member
<i>BAYANI H. JACINTO*</i>	----- Member

The following resolution was adopted:

**SB-17-CRM-1414 to 1415 – PEOPLE v. BELINDA ANACAN GONZALES**

This resolves the *Motion for Leave to File Demurrer to Evidence (Motion)* dated 4 June 2018<sup>1</sup> filed by accused Belinda Anacan Gonzales. The *Motion* is based on the following grounds:

- 1) THE PROSECUTION FAILED TO ESTABLISH THE EXISTENCE OF ALL THE ELEMENTS FOR PERJURY AS PENALIZED UNDER ARTICLE 183 OF THE REVISED PENAL CODE.
- (2) THE PROSECUTION WITNESSES FAILED TO PROVE THAT THE ACCUSED MADE A WILLFULL (sic) AND DELIBVERATE (sic) ASSERTION OF FALSEHOOD.
- (3) THE PROSECUTION FAILED TO PROVE BEYOND REASONABLE DOUBT THAT ACCUSED WAS GUILTY OF VIOLATION OF ARTICLE 183 OF THE REVISED PENAL CODE.

Accused admits that the first two elements of perjury are present: (i) that she made a statement under oath or executed an affidavit upon a material matter; and (ii) the statement or affidavit was made before a competent officer

\* Per Admin. Order No. 284-2017 dated 18 August 2017.

<sup>1</sup> Records, pp. 295-305.

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authorized to receive and administer oaths. She submits, however, that the prosecution failed to prove the third element of the crime - that in the statement or affidavit the accused made a willful and deliberate assertion of falsehood. She adds that good faith or lack of malice is a valid defense *vis-à-vis* the allegation of deliberate assertion of falsehood in perjury cases.

In this connection, the accused claims that the prosecution witnesses merely identified documents but they had no personal knowledge of the falsity of the entries in her Statements of Assets Liabilities and Net Worth (SALNs). She points out that prosecution witness Atty. Dennis Mendoza testified that the misdeclaration only served to make the accused rich on paper but does not work to her advantage. He also testified that "acquisition cost" was not mentioned in the Deed of Absolute Sale and "thus the amount of Php900,000.00 appearing in the deed of absolute sale may refer to assessed value, current fair market value, or the acquisition cost."

Accused further claims that Atty. Mendoza had no actual knowledge of the transaction between her and the original owner of the property she purchased. He also failed to conduct an ocular inspection, and thus had no knowledge of whether the house or the improvements thereon were pre-existing at the time of the sale or were newly-constructed.

Finally, she argues that she "... honestly believed that the acquisition cost of her property was Two Million Six Hundred Thousand Pesos (Php2,600,000.00) since this is the amount she paid to the registered owner, she may not be faulted for not insisting to the Seller that the same amount be indicated in the Deed of Absolute Sale, but the same does not necessarily amount to a deliberate and willful assertion of a falsehood in the absence of proof of malice on her part."

In sum, the accused claims that the prosecution failed to prove her guilt beyond reasonable doubt. And, citing the equipoise rule, she submits that the presumption of innocence should be appreciated in her favor.

In its *Comment/Opposition*,<sup>2</sup> the prosecution argues that the *Motion* is procedurally infirm for the following reasons: (i) it failed to show that accused received a copy of the Court's 4 May 2018 Resolution (resolving the prosecution's Formal Offer of Evidence) on 29 May 2018; and (ii) the *Motion* was set for hearing 15 days from its filing, or beyond the 10-day period provided in Section 5, Rule 15 of the Rules of Court. Hence, the prosecution

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<sup>2</sup> *Comment/Opposition* dated 7 June 2018, Record, pp. 306-310.

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claims that the Motion is a mere scrap of paper and should not even be entertained by the Court.

On the substantive aspect, the prosecution claims that it was able to prove all the elements of Perjury and that the accused has consistently and deliberately declared false information for five consecutive years despite the fact that she was a learned person who occupied a high-level government position.

The prosecution emphasizes that the submission of SALNs is required by law, and the accused's failure to declare the true acquisition cost of her property is inconsistent with the presumption of good faith. It submits that the deliberate disregard of the requirement of the law translates to gross negligence amounting to bad faith.

### **Ruling of the Court**

Accused Gonzales is charged with Perjury, punishable under Article 183 of the Revised Penal Code, which provides:

*Art. 183. False testimony in other cases and perjury in solemn affirmation.* — The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.

The elements of the said felony are as follows:

- (1) there must be a sworn statement that is required by law;
- (2) it must be made under oath before a competent officer;
- (2) the statement contains a *deliberate assertion of falsehood*; and

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(4) *the false declaration is with regard to a material matter.*<sup>3</sup>

At this stage of the proceedings, the prosecution has submitted proof of the presence of all the elements as enumerated above.

As adverted to earlier, the accused even concedes the presence of the first two elements. The third element - the deliberate assertion of falsehood - is satisfied by the proof of the commission of the unlawful acts. *Dolo* may be inferred from the wrongful act, in accordance with the rebuttable presumption that an unlawful act was done with unlawful intent. *United States v. Tria*<sup>4</sup> establishes the following principle of law:

It is well known that a presumption of criminal intention may arise from proof of the commission of an unlawful act, it being the general rule that, if it is proved that the accused committed the unlawful act charged, it will be presumed that the act was done with a criminal intention, and that it is for the accused to rebut this presumption.

*People v. Sia Teb Ban*<sup>5</sup> also instructs that the execution of acts penalized by law are presumed to be voluntary, and were freely and deliberately executed, in the absence of evidence to the contrary:

It is a fundamental doctrine of law that the act penalized by the law is presumed to be voluntary unless the contrary is shown (art. 1, Penal Code). And from the appellant's felonious acts, freely and deliberately executed, the moral and legal presumption of a criminal and injurious intent arises conclusively and indisputably, in the absence of evidence to the contrary xxxx

Indeed, the evidentiary presumption can be overcome, but only upon the submission of controverting evidence. Hence, Sec.3(b), Rule 131 of the Rules of Court provides the presumption that an unlawful act was done with unlawful intent, and that the same constitutes satisfactory proof, unless contradicted and overcome by other evidence.

On this note, it is irrelevant whether the prosecution was able to present witnesses that could directly testify on accused Gonzales' deliberate intent to include false assertions in her SALNs. It is enough that it was able to prove

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<sup>3</sup> *Masangkay v. People*, G.R. No. 164443, 18 June 2010, citing *Sy Tiong Shiou v. Sy Chim and Chan Sy*, G.R. Nos. 174168 and 179438, 30 March 2009.

<sup>4</sup> G.R. No. L-6013, 13 November 1910. See *U.S. v. Ballesteros*, G.R. No. 8855, 22 October 1913; G.R. No. 13626, 29 October 1918; *U.S. v. Cueto*, G.R. No. 13626, 29 October 1918; *People v. Cubelo*, G.R. No. L-13678, 20 November 1959.

<sup>5</sup> G.R. No. 31695, 26 November 1929.

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the pointed disparity between the declared acquisition cost of accused's house and lot with what is stated in the Deed of Absolute Sale, as well as in the Certificate Authorizing Registration and its attached documents. It was also able to prove that the accused had made such misrepresentations in her SALNs for several years, particularly in her 2005 and 2006 declarations.

There is no merit in accused's assertion that the amount of Php900,000.00 indicated in the Deed of Absolute Sale could actually refer to assessed value, current fair market value, or acquisition cost. The SALN forms have columns pertaining to assessed value, current fair market value, and acquisition cost and accused, in fact, had the obligation to fill up all the said columns but she failed to do so for several years, including the years 2005 and 2006.

Similarly, there is no merit in the argument that Atty. Mendoza failed to conduct an ocular inspection and thus would have failed to see if there were any improvements on the property.

It is understandable that the prosecution's witness would be unable to determine *via* an ocular inspection whether the accused's declarations were correct, especially considering that the purchase was made in 2002, and the misdeclarations continued until 2006, while the Office of the Ombudsman (OMB) appears to have only been apprised thereof only in 2016. However, even if the OMB was unable to conduct such an inspection, the record shows that the property was purchased in November 2002 and the declaration of its worth remained the same from that year up until 2006. It is but logical to assume that the accused could not have made improvements thereon amounting to more than Php 1,500,000.00 in the interim, considering that the declared value of said property remained the same.

Nonetheless, accused admits in her *Motion* that she should have insisted that the property's seller indicate the amount actually paid for the said property, rather than the declared amount of PhP 900,000.00. This admission, which in all probability misled the Bureau of Internal Revenue as to the actual acquisition cost of the property, militates against the accused's overall claim of good faith.

Finally, the fourth element - materiality of the declaration - is present, given that Republic Act. No. 6713, in no uncertain terms requires that the SALNs be accomplished truthfully.

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In sum, while it is true that the presumption that accused Gonzales executed the subject acts with criminal intent can be overcome, she has yet to present controverting evidence for that purpose. On the basis of the foregoing, the Court denies accused her *Motion* for lack of merit.

**WHEREFORE**, premises considered, the *Motion for Leave to File Demurrer to Evidence* dated 4 June 2018 filed by accused Belinda Anacan Gonzales is **DENIED** for lack of merit.

**SO ORDERED.**

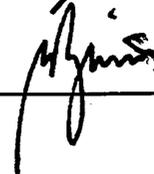
**GOMEZ-ESTOESTA, J. Chairperson**

  
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**TRESPESES, J.**

  
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**JACINTO, J.**

  
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