



Republic of the Philippines
SANDIGANBAYAN
Quezon City

FIFTH (5th) DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

Criminal Case No. SB-18-CRM-0696

-versus-

For: Falsification of a Public/Official
Document, under Article 171, paragraph
2 of the Revised Penal Code

WILFREDO SUBIDO BALAIS,

Accused.

Present:

Lagos, J., Chairperson,
Mendoza-Arcega, J., and
Corpus-Mañalac, J.

Promulgated:

July 22, 2022
[Signature]

X-----X

DECISION

LAGOS, J.:

Accused Carlos Wilfredo Subido Balais (Balais), then Mayor of the Municipality of Labason, Zamboanga del Norte, is charged with Falsification of a Public/Official Document, defined and penalized under Article 171, paragraph 2 of the Revised Penal Code,¹ the accusatory portion of the Information reads:

"That in January 2011, or sometime prior or subsequent thereto, in the Municipality of Labason, Zamboanga del Norte, Philippines, and within the

¹ RA. 10951 amended Article 171 of the Revised Penal Code, Section 25 of which states:

Section 25. Article 171 of the same Act is hereby amended to read as follows:

"Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - The penalty of prisión mayor and a fine not to exceed One million pesos (P1,000,000) shall be imposed upon any public officer, employee, or notary who, taking advantage of his or her position shall falsify a document by committing any of the following acts:

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

[Handwritten signature]

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jurisdiction of this Honorable Court, accused Wilfredo Subido Balais, a high ranking public officer, being the Municipal Mayor of the Municipality of Labason, Zamboanga del Norte, in such capacity and committing the offense in relation to office, taking advantage of his official position, did then and there wilfully, unlawfully and feloniously falsify or caused to be falsified the Notice of Award dated 20 January 2011, a public/official document pertaining to the procurement of one (1) unit Nissan Patrol, by making it appear therein that the bid of Oro Cars Display Center in the amount of PhP960,000.00 was accepted, thereby making it appear that it had participated in the said bidding, when in truth and in fact, as the accused fully well knew that Oro Cars Display Center did not so participate in the afore-mentioned bidding, to the damage and prejudice of public interest.

CONTRARY TO LAW."²

ANTECEDENT FACTS

On 26 November 2010, accused Balais, then the Municipal Mayor of Labason, Zamboanga del Norte, sold his 2001 Nissan Patrol with plate number KCL 533 to Eduardo V. Ayunting (Ayunting), for and in the consideration of the sum of PhP500,000.00.00. The said transaction is evidenced by "Deed of Sale of Motor Vehicle" dated 26 November 2010.³

A few months after the said sale or on 07 January 2011, Virgilio J. Go (Go), then the Municipal Vice Mayor of Labason, made a request for the purchase of a service vehicle.

On 19 January 2011, the Bids and Awards Committee (BAC) of the Municipality of Labason held a meeting wherein the bids pertaining to the purchase of a motor vehicle were opened. The Minutes⁴ states as follows:

- "a. *The Sangguniang Bayan of Labason agreed upon themselves to buy a service vehicle to be used by their office. They agreed further that because of the lack of funds to buy elegant brand new vehicle, they decided to purchase a second hand Nissan Patrol.*

² Information dated 04 May 2018, Records, Volume 1, page 1.

³ Exhibit "B"

⁴ Exhibit "A-56"

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There were three (3) bidders who submitted their bids for Nissan Patrol model year 2001, Oro Cars Display Center, Eves Display Center and Catmon Car Sales.

- b. *Submit a recommendation to LCE to issue a Notice of Award to Oro Cars Display Center with the lowest calculated bid."*

The Court notes that there were two (2) sealed envelopes for each prospective bidder. The first contained the Department of Trade and Industry (DTI) Certificate of Business Name Registration and the expired Business Permit for each prospective bidder, and the second contained only the Price Quotations. Based solely on the Price Quotations⁵ submitted, the BAC recommended that a Notice of Award be issued to Oro Cars Display Center which submitted the lowest bid. The next day, on 20 January 2011, accused Balais issued the Notice of Award⁶ in favor of Oro Cars Display Center and immediately signed Purchase Order 0089-11.⁷

The subject vehicle was delivered to the Municipality of Labason sometime in January 2011 and was accepted and inspected on 24 January 2011. Among those who performed inspection were accused Balais and Go.⁸

Thereafter, accused Balais approved Disbursement Voucher No. 100-11-01-212,⁹ authorizing the issuance of Land Bank of the Philippines (LBP) Check No. 0001222857 dated 26 January 2011¹⁰ in the amount of PhP908,571.43, as payment to Oro Cars Display Center for the subject vehicle.

Oro Cars Display Center Official Receipt No. 0820¹¹ dated 28 January 2011, signed by Paz G. Tawi (Tawi), was issued therefor. The said LBP check was eventually deposited to accused Balais' account with Banco de Oro (BDO) Dipolog branch, after Tawi affixed her signature at the back of the check, thereby indorsing the same to accused Balais.

Meanwhile, Ayunting, now as seller, executed another "Deed of Sale of Motor Vehicle" dated 28 January 2011, in favor of LGU of Labason, Zamboanga del Norte, as represented by Go, to sell the subject vehicle- 2001 Nissan Patrol with plate number KCL 533, for and in the consideration of the sum of PhP960,000.00.00.

Several months later, or on 01 August 2011, the Sangguniang Bayan of Labason, passed Resolution No. 117, Series of 2011, authorizing accused Balais to rescind the contract of sale of the subject vehicle, entered into by Ayunting and LGU of Labason, on the following grounds:

⁵ Exhibits "A-58", "A-59" and "A-62".

⁶ Exhibit "A-55".

⁷ Exhibit "A-54".

⁸ Exhibit "A-53".

⁹ Exhibit "A-50".

¹⁰ Exhibits D", "D-1".

¹¹ Exhibit "E".

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“WHEREAS, after careful scrutiny and perusal of the Deed of Sale and other documents pertinent thereto, it was found that the purchase price is quite high compared to the price when the same was first sold to the vendor, and therefore, disadvantageous to the government, and the LGU would suffer lesion that would prejudice the government, unless the contract thereto is rescinded. Moreover, the subject vehicle is only four-wheel drive ready, while the Sanggunian needs a four-wheel drive one.”

Pursuant to the said Sangguniang Bayan Resolution, accused Balais and Ayunting executed the “Agreement for Rescission Contract” (sic) dated 03 August 2011. Cash in the amount of PhP960,000.00 was refunded to the LGU of Labason and Official Receipt No. 2897322 dated 05 August 2011 was issued to “Oro Cars Display Center/ Eduardo Ayunting.”

Based on the foregoing facts, a case for violation of Section 3(e) of R.A. 3019 was filed against accused Balais, docketed as SB-15-CRM-0120 and was raffled to the Sandiganbayan- Sixth (6th) Division. As the said case had already progressed, this case for Falsification of a Public/ Official Document, under Article 171, paragraph 2 of the Revised Penal Code, proceeded separately in this Court.

On 12 December 2018, the Court found probable cause to issue a warrant of arrest against accused Balais, thus, a warrant of arrest was issued.¹² On the same date, the Court issued a Hold Departure Order (HDO) against the accused.¹³

On 14 December 2018, accused Balais posted cash bail bond of PhP24,000.00 at Regional Trial Court-Branch 28 of Liloy, Zamboanga del Norte, for his provisional liberty.¹⁴ On 16 October 2018, accused Balais assisted by his counsel, Atty. Cresencio N. Palpagan, entered a plea of not guilty to the charge in the Information.¹⁵

Preliminary conferences were conducted thereafter.

On 29 November 2019, the Sandiganbayan- Sixth (6th) Division rendered its Decision pertaining to SB-15-CRM-0120 and found accused Balais and Go guilty beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019. The dispositive portion of which is cited as follows:

¹² Minute Resolution dated 12 December 2018, Records, Volume I, page 140.

¹³ Hold Departure Order dated 12 December 2018, Records, Volume I, page 139.

¹⁴ Order dated 17 January 2019, Records, Volume I, page 164.

¹⁵ Order dated 15 February 2019, Records, Volume I, page 180.

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“CONCLUSION

The prosecution proved beyond reasonable doubt all the elements of violation of Sec. 3(e) of R.A. No. 3019, as to both accused Balais and Go.

WHEREFORE, accused WILFREDO S. BALAIS and VIRGILIO J. GO are found GUILTY beyond reasonable doubt of Violation of Sec. 3(e) of R.A. No. 3019, and are accordingly sentenced each to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to twelve years as maximum, with perpetual disqualification from holding public office.

SO ORDERED.”

On 24 January 2020, the Court issued a Pre-trial Order¹⁶ where the parties stipulated on the following facts:¹⁷

1. That accused Balais is the same person named in the Information in this case;
2. That during the period material to this case, as alleged in the Information, accused Balais was a public officer being then the Municipal Mayor of Labason, Zamboanga del Norte;
3. That accused Balais admits the existence of Notice of Award dated 20 January 2011, addressed to Oro Cars Display Center; and
4. That the LBP Check No. 0001222857 dated 26 January 2011 representing payment to Oro Cars Display Center in the amount of PhP908,571.43 was deposited to accused Balais’ personal bank account with the BDO, Dipolog City Branch.

In the Pre-Trial Order, the issue¹⁸ below was raised:

Whether accused Balais should be held liable for Falsification of a Public/Official Document (Article 171, par.2 of the RPC) for taking advantage of his official position as then the Municipal Mayor of Labason, Davao del Norte, by falsifying or causing to be falsified, during the period alleged in the Information, the Notice of Award dated 20 January 2011, a public document pertaining to the procurement of a 2011 Nissan Patrol, by making it appear therein that the bid of Oro Cars Display Center was accepted in the amount of PhP960,000.00, thereby making

¹⁶ Pre-Trial Order dated 24 January 2020, Records, Vol. I, pages 271-280.

¹⁷ Id.

¹⁸ Id.

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it appear it had participated in the said bidding despite full knowledge by the accused that Oro Cars Display did not participate in the afore-mentioned bidding.

Thereafter, trial ensued. The prosecution and the defense presented their respective witnesses and documentary evidence and rested their case.

EVIDENCE FOR THE PROSECUTION

Through their Judicial Affidavits, the following witnesses testified against the accused.

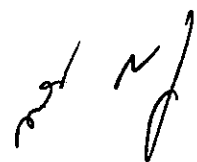
PAZ G. TAWI¹⁹

Tawi is the proprietor of Oro Cars Display Center, located at National Highway, Nasugbu, Bulua, Cagayan de Oro City. Oro Cars Display Center is a single proprietorship engaged in the business of buying and selling slightly used, commercial and/or surplus cars.

In her Judicial-Affidavit, she testified that:

1. Pursuant to a subpoena received from the Office of the Ombudsman, she appeared before the said office on 11 November 2019 and was asked questions regarding various documents in connection with a 2001 Nissan Patrol supposedly for procurement by LGU Labason, Zamboanga del Norte from Oro Cars Display Center.
2. She also identified Exhibit “N” which is the price quotation. She explained that she has seen the document prior since she already appeared in September 2016 at the Office of the Ombudsman in connection with another case involving the Nissan Patrol and she also testified at the Sandiganbayan and this document was among the documents she testified on during the trial of the case for violation of Section of Section 3(e) of R.A. 3019, docketed as SB-15-CRM-0120 with the Sandiganbayan- Sixth (6th) Division.
3. The price quotation is not their price quotation because Oro Cars Display Center did not send a price quotation to LGU Labason. In fact, they did not have a transaction with them regarding a 2001 Nissan Patrol. Another reason why she knows that this was not their price quotation is because theirs are handwritten while the details of this price quotation are typewritten.
4. While the letterhead or logo is that of Oro Cars Display Center, she merely signed the price quotation in blank. Specifically, when she placed her signature on the document, the date, and the other details such as the make,

¹⁹ Judicial Affidavit of Paz G. Tawi dated 17 June 2021, Records, Volume 1, pages 380- 397.



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type, engine number, serial number, selling price and the other details in the price quotation were in blank. The name and address of the LGU was also not yet filled up.

5. She signed the price quotation document with the details all in blank because the signed blank price quotation was intended to be used by customers of Oro Cars Display Center for purposes of bank loan or financing when they cannot pay in cash.
6. The details were only added after the signed blank price quotation form was given to James Galon (Galon). Galon used to be a good friend who is engaged in buying and selling of cars and he uses her Display Center to sell his own available inventory of cars since he did not have own display center at that time.
7. Around early part of 2011, Galon called her and asked her if he could drop by the Display Center to get a blank price quotation with her signature already appearing on it. When she asked him why, he said that he has a buyer who was asking for a price quotation for a vehicle. She told him she was not at the Display Center. However, since Galon said he needed the signed blank price quotation immediately, she told him that she has in her office a signed blank price quotation for purposes of bank loan or financing of our clients when they cannot pay in cash. Galon said he needed the signed blank price quotation form immediately, so he said he would pick it up himself at the Display Center. She then instructed her employee to give the signed blank price quotation form to Galon. Her arrangement with Galon is for his use of her Display Center, she gets paid PhP10,000.00 per unit sold.
8. The 2001 Nissan Patrol described in the price quotation displayed at the Oro Cars Display Center was never displayed at the Display Center.
9. She also identified Exhibit “J” which is the Purchase Order and confirmed that she affixed her signature below the word “Conforme” above her printed name Paz G. Tawi, which she signed together with the other documents given to her by Galon and his wife.
10. She identified Exhibit “E” which is Oro Cars Display Center Official Receipt No. 0820 indicating that on 28 January 2011, Oro Cars Display Center received from LGU Labason, the amount of PhP908,571.43. Oro Cars Display Center did not receive such amount from LGU Labason because there was no transaction with the said municipality regarding a Nissan Patrol.
11. She identified Exhibit “F” and confirmed that the net amount disbursed after deductions is PhP908,571.43 through LBP Check Number 0001222857. She stated that she did not enter into a transaction with LGU Labason or any of its officials in connection with a 2001 Nissan Patrol so there is no reason for her or Oro Cars Display Center to receive the payment of PhP908,571.43

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12. She identified Exhibits “D” to “D-1” which is the LBP Check Number 1222857 which she signed because Galon asked her to sign it. She claimed that she relied on Galon’s assurance that nothing was wrong with the transaction involving the said check and that her endorsement is needed so that the check can be encashed. She believed that Galon will not put her in any trouble since he was a good friend.
13. She identified Exhibits “P” to “P-2” which is the Notice of Award. It is among the various documents that Galon and his wife asked her to sign on different occasions. The Notice of Award dated 20 January 2011 of Oro Cars Display Center was for a winning bid in the amount of Php960,000.00 for a Motor Vehicle (Nissan Patrol year 2001 model) but the truth is Oro Cars did not submit a bid of Php960,000.00 for a Motor Vehicle (Nissan Patrol year 2001 model). In fact, the details in the Notice of Award such as the date, date of the Bid and contract price of Php960,000.00 were all in blank when she was made to put her signature in it by Galon and his wife.
14. She met accused Balais around September 2015 at the Riverview Hotel at Carmen, Cagayan de Oro City, when she received a phone call from him and requested that they meet. He got her number from her mechanic who was also the mechanic of Galon and who drives for accused Balais.
15. During the meeting, accused Balais asked her to admit that in case somebody asks about the Nissan Patrol, she should admit that there was bidding conducted regarding the said vehicle. In response, she said she cannot make an admission that there was a bidding conducted for the Nissan Patrol because she was sure that Oro Cars Display Center did not enter into any transaction with LGU Labason.
16. She had not met Galon for a long time. The controversy about the Nissan Patrol ended whatever friendship they had.
17. She testified at the Sandiganbayan in another case regarding the Nissan Patrol and she knows that accused Balais was convicted in that earlier case.

On cross,²⁰ she again identified Exhibit “N” which is the price quotation.

On clarificatory,²¹ she testified that she signed the blank Purchase Order, Purchase Request and Disbursement Vouchers and the checks out of his trust to her friend, James Galon.

²⁰ Transcript of Stenographic Notes dated 01 July 2021.

²¹ Ibid.

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MARK DENVILL V. DENOYO²²

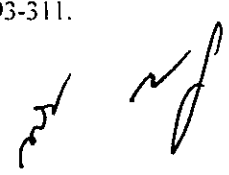
Denoyo is a State Auditor III and Audit Team Leader of Audit Team R9-09, Audit Group A, Local Government Sector, Provincial Satellite Auditing Office (PSAO) Lawaan, Dapitan City since 27 March 2018. He had been employed with the Commission on Audit (COA) for fifteen (15) years as he initially joined as State Auditing Examiner way back in 26 October 2004. As an Audit Team Leader, he performs the following major functions:

- a. Prepare the audit program based from or the audit thrust during the year;
- b. Conducts audit of accounts, cash examinations, supervise the work of the audit members;
- c. Acts as custodian of accounts being transmitted by the auditees;
- d. Prepare audit reports and other monthly, quarterly, semestral reports;
- e. Receive, keep and act on communications and letter request received by the audit team;
- f. And any other functions assigned by the Supervising Auditor from time to time.

In his Judicial-Affidavit, he testified that:

1. Under P.D. 1445, they are mandated to act as custodian of government accounts which pertains to disbursement vouchers, official receipts, payrolls, liquidation reports, and its supporting documents. The auditees are required to submit the original copy of those documents to the Office of the Audit Team Leader. "Auditees" refer to the Local Government Units that are being audited under the jurisdiction of the Audit Team which in his case include the Municipality of Labason, Liloy and Gutalac, Province of Zamboanga del Norte.
2. Pursuant to a subpoena *duces tecum* received from the Office of the Ombudsman, he furnished them the certified true copies of the following:
 - a. Land Bank Check No. 000122857 dated 26 January 2011 amounting to PhP908,571.43;
 - b. Oro Cards Display Center Official Receipt dated 28 January 2011;
 - c. Disbursement Voucher No. 100-11-01-212;
 - d. Obligation Request No. 101-01-11-00184;
 - e. Requisition and Issue Slip No. 0091-11 dated 20 January 2011;
 - f. Purchase Order No. 0089-11;
 - g. Minutes of Opening of Bids;
 - h. Abstract of Bids as Read dated 19 January 2011;

²² Judicial Affidavit of Mark Denvill V. Denoyo dated 14 November 2019, Records, Volume 1, pages 293-311.



- i. Purchase Request dated 07 January 2011;
- j. Price Request dated 07 January 2011;
- k. Official Receipt No. 2897322 dated 05 August 2011 by the Municipality of Labason;
- l. Official Receipt No. 2897322 dated 05 August 2011 by the Municipality of Labason; and
- m. Notice of Award dated 20 January 2011 addressed to Oro Cars Display Center.

DOCUMENTARY EXHIBITS

The Prosecution then proceeded to offer the following documentary evidence. The Court admitted the following Exhibits:

EXHIBIT	DESCRIPTION
A to A-22	Original copy of Complaint-Affidavit dated 05 February 2016 of Roberto R. Galon
A-23 to A-43	Resolution dated 26 February 2013 in OMB-M-11-0356-1 finding probable cause to hold accused Balais, Virgilio J. Go and Eduardo A. Ayunting for violation of Section 3(e) of RA No. 3019
A-44 to A-45	Information in SB-15-CRM-0120 dated 20 November 2014 against accused Balais, Virgilio J. Go and Eduardo A. Ayunting for violation of Section 3(e) of RA No. 3019
A-46 to A-49	Letter dated 18 September 2015 of Eduardo A. Ayunting addressed to former Ombudsman Conchita-Carpio-Morales expressing his desire to be discharged to act as a state witness
A-50	Disbursement Voucher No. 110-11-01-212 in the amount of Php960,000.00 payable to Oro Cars Display Center as payment for the 2001 Nissan Patrol with engine number ZD30-057279A, chassis number TWSSLFFY61-Y00506 and plate number KCL 533
A-51	Obligation Request No. 101-01-00184 indicating the amount of Php960,000.00 intended for Oro Cars Display Center
A-52	Requisition and Issue Slip No. 0091-11 dated 24 January 2011 for one (1) unit Nissan Patrol (Model year 2001) bearing the signature and approval of accused Balais
A-53	Acceptance & Inspection Report dated 20 January 2011 signed by accused Balais with other members of the inspection team and Property Officer stating that the subject motor vehicle was “Inspected, verified and found OK as to quantity and specification” on 24 January 2011
A-54	Purchase Order No. 0089-11 dated 20 January 2011 for one (1) unit Nissan Patrol 2011 model (second hand) amounting to Php960,000.00 with engine no. ZD30-057279A and serial no. TWSSLFFY61-Y00506 bearing the signatures of accused Balais and Paz G. Tawi of Oro Cars Display Center
A-55	Notice of Award dated 20 January 2011 addressed to Oro Cars Display Center
A-56	Minutes of Opening of Bids held on 19 January 2011 for the purchase of a secondhand Nissan Patrol

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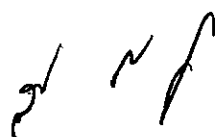
A-57	Abstract of Bids dated 19 January 2011 showing the respective bid amounts of Oro Cars Display Center for PhP960,000.00; Eves Display Center for PhP980,000.00; and Catmon Car Sales for PhP1,100,000.00.
A-58	Price quotation dated 11 January 2011 from Eves Display Center for a Nissan Patrol 2001 model in the amount of PhP960,00.00.
A-59	Price quotation dated 10 January 2011 from Catmon Car Sales for a Nissan Patrol 2001 model in the amount of PhP1,100,00.00.
A-60	Invitation to Apply for Eligibility to Bid for a one (1) unit Nissan Patrol with an approved budget of PhP1,100,00.00 for the Municipality of Labason, Zamboanga del Norte
A-61	Purchase Request dated 07 January 2011 of LGU-Labason for one (1) unit motor vehicle with an estimated cost of PhP1,100,000.00 with the approval and signature of accused Balais as the Municipal Mayor
A-62	Price quotation dated 10 January 2011 amounting to PhP960,00.00 by Oro Cards Display Center covering a 2001 Nissan Patrol with engine number ZD30-057279A and serial number TWSSLFFY61-Y00506
A-63	Official Receipt No. 287822 dated 05 August 2011 issued by the Municipality of Labason amounting to PhP960,000.00 representing "refund payment" paid to LGU-Labason by Oro Cars Display Center/Edward Ayunting
A-64 to A-66	Immunity Agreement dated 16 November 2015 between the Office of the Ombudsman and Eduardo A. Ayunting
A-67 to A-70	Motion to Discharge Accused Ayunting to be a State Witness dated 08 December 2016 in Case No. SB-15-CRM-0120 entitled "People vs. Wilfredo S. Balais, et al." for violation of Section 3(e) of RA 3019
A-71	Memorandum Order dated 28 December 2005 of accused Balais, then Municipal Mayor of Labason, Zamboanga del Norte, enjoining all departments of the LGU to endorse all requests to the office of the Mayor of documents or records pertaining to transactions undertaken by the LGU
A-72	Affidavit of Undertaking dated 27 October 2015 of Paz G. Tawi
A-73	Affidavit of Denial dated 05 November 2015 of William B. Nuneza, owner of Catmon Car Sales
A-74	Letter dated 05 November 2015 of Atty. Eleazar S. Boycillo, retained lawyer of William B. Nuneza, addressed to Prosecutor Peter Jedd B. Boco, Assistant Special Prosecutor II, Office of the Ombudsman
A-75 to A-86	Counter-Affidavit dated 24 October 2011 of respondents in OMB-M-C-11-0356-1 for Violation of RA3019, Malversation and OMB-M-A-11-390-1 for Grave Misconduct, Serious Dishonesty, Violation of RA 6713
A-87 to A-89	Counter-Affidavit dated 13 October 2011 of Ernesto A. Ramirez, one of respondents in OMB-M-C-11-03561-1 for Violation of RA 3019, Malversation
A-90 to A-92	Partial Motion for Reconsideration dated 10 January 2016 of Roberto R. Galon from the Decision dated 01 September 2014 seeking its partial modification that respondents therein be dismissed from the service and be perpetually barred from holding public office and to impose other accessory penalties
B	Deed of Sale of Motor Vehicle dated 26 November 2010 between Eduardo A. Ayunting as buyer and Wilfredo S. Balais as seller of a 2001 Nissan Patrol Wagon with engine ZD30-057279A, chassis number TWSSLFFY61-Y00506, and plate number KCL 533 for and in the consideration of the sum of Five Hundred Thousand Pesos (PhP500,000.00)

C	Deed of Sale of Motor Vehicle dated 28 January 2011 between Eduardo A. Ayunting and LGU of Labason, Zamboanga del Norte represented by Virgilio J. Go covering a 2001 Nissan Patrol Wagon with engine ZD30-057279A and chassis number TWSSLFFY61-Y00506 for and in the consideration of the sum of Nine Hundred Sixty Thousand Pesos (PhP960,000.00)
D	Land Bank Check No. 0001222857 dated 26 June 2011 (front and back portions) amounting to PhP908,571.43 showing Oro Cars as payee thereof
D-1	Dorsal side
E	Oro Cars Display Center Official Receipt dated 28 January 2011 amounting to PhP908,571.43 received from LGU Labason
F	Certified True Copy of Disbursement Voucher No. 100-11-01-212 with a gross amount of PhP960,000.00 for the payment of Motor Vehicle (Nissan Patrol model year 2001) with Oro Cars Display Center as payee
G	Obligation Request No. 101-01-11-00184 with a gross amount of PhP960,000.00 for the payment of Motor Vehicle (model year 2001) with Oro Cars Display Center as payee
H	Requisition and Issue Slip No. 0091-11 dated 24 January 2011 for one (1) unit Nissan Patrol (model year 2001) Second Hand
I	Acceptance and Inspection Report dated 20 January 2011 for one (1) unit Nissan Patrol (model year 2001) Second Hand
J	Purchase Order No. 00089-11 dated 20 January 2011 for one (1) unit Nissan Patrol (model year 2001) Second Hand
K	Minutes of Opening of Bids held on 19 January 2011 regarding the result of the bidding for one (1) unit Nissan Patrol (model year 2001) Second Hand
L	Abstract of Bids as Read dated 19 January 2011
M	Purchase Request dated 07 January 2011 for one (1) unit motor vehicle
N	Price Quotation dated 10 January 2011 for a Nissan Patrol 2001-2002 year model with a selling price of PhP960,000.00
O to O-1	Official Receipt No. 2897322 dated 05 August 2011 amounting to PhP960,000.00 issued by Municipality of Labason, Zamboanga del Norte with Oro Cars Display Center as payee as Refund Payment of D.V. # 100-11-01-212.
P	Notice of Award dated 20 January 2011 addressed to Oro Cars Display Center signed by accused Balais
P-1	Signature of Paz Tawi
P-2	Signature of accused Balais

EVIDENCE FOR THE DEFENSE

WILFREDO SUBIDO BALAIS²³

²³ Judicial Affidavit dated 07 December 2021, Records, Volume 2, pages 188- 232.



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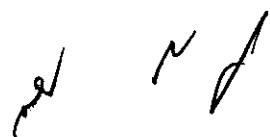
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Accused Balais was the Mayor of the Municipality of Labason, Zamboanga del Norte. In his Judicial-Affidavit, he testified that:

1. The transaction involved was a procurement under the Capital Outlay (Vehicle Outlay) authorized under the Program Appropriation and Obligation by Object (General Fund Annual Budget for the year 2011) for the SB-Legislative and the Vice Mayor's Office of the Municipality of Labason, Zamboanga del Norte, with appropriation balances for budget year 2011 in the amounts of PhP1,000,000.00 and PhP100,000.00, respectively, through a competitive public bidding under R.A. 9184, which yielded the questioned Notice of Award.
2. A Purchase Request was executed on 07 January 2011 for a total amount of PhP1,100,000.00. On the same day, the local Bids and Awards Committee (BAC) executed an Invitation to Apply for Eligibility and To Bid for an Approved Budget for the Contract in the amount of PhP1,100,000.00.
3. Three suppliers submitted their respective bid proposals namely: (a) Paz G. Tawi of Oro Cars Display Center Zone-1, National Highway, Bulua, Cagayan de Oro City, submitting her price quotation letter, Business Permit and DTI Certificate of Business Name Registration; (b) William B. Nuneza of Catmon Car Sales, National Highway, Kauswagan, Cagayan de Oro City, submitting her price quotation letter, Business Permit and DTI Certificate of Business Name Registration; (c) Elvin V. Saguino of Eves Display Center, National Highway, Kauswagan, Cagayan de Oro City, submitting her price quotation letter, Business Permit and DTI Certificate of Business Name Registration.
4. The local BAC convened. They discussed the procurement option and basis thereof, then, they proceeded to open the bids submitted for evaluation. It was their collective decision to submit a recommendation to the Local Chief Executive (LCE) to issue a Notice of Award to Oro Cars Display Center with the lowest calculated bid.
5. The basis for the execution of the Notice of Award was the Minutes of Opening of Bids²⁴, the authority was the recommendation of the BAC and Section 37, R.A. 9184, provides: "Notice and Execution of Award- Within a period not exceeding fifteen (15) calendar days from the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, and the recommendation of award, the Head of Procuring Entity or his duly authorized representative shall approve or disapprove the said recommendation. In case of approval, the Head of Procuring Entity or his duly authorized representative shall immediately issue the Notice of Award to the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
6. The basis for the recommendation of the award was the that the BAC executed an Abstract of Bids as Read, showing that Tawi of Oro Cars Display Center

²⁴ Exhibit "8".



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was awarded for having submitted the lowest calculated bid for PhP960,000.00.

7. The BAC recommended the award be given to Tawi, thus, the LCE issued the said Notice of Award.
8. The execution of the Notice of Award was done in all good faith. It was issued based on actual conduct of competitive bidding. There is a sufficient legal authority for its issuance; and it was based on a unanimously deliberated and well-considered collective decision of the BAC based on the actual facts and figures of the official bidding process.
9. Aside from being valid and authentic in form, it is valid in substance as it was signed by the LCE and conformed to by the winning bidder, Tawi.
10. The LGU, Labason, Zamboanga del Norte, represented by its LCE, executed a supply contract with the winning bidder, by way of a Purchase Order. Likewise, as in the Notice of Award, the said PO was confirmed by Tawi, completing the mutuality of consent and the cause and consideration of that bilateral contract.
11. The winning bidder delivered to the LGU the unit purchased in accordance with the notice of award and purchase order; further it was delivered to the end-user.
12. The LGU made the payment and the proper accounting of the transaction. Concomitant with the delivery of the unit purchased, the registered owner of the unit who displayed it with the winner bidder, Oro Cars Display Center, executed a Deed of Sale of Motor Vehicle with his registration and ownership records and the registration documents in the name of the purchaser, the LGU, Labason, Zamboanga del Norte.
13. He reviewed the documents and manner of bidding, he found a considerable price difference between the cost of the asset in the hands of Ayunting and the selling price paid by the LGU. For that reason, even before any complaint on the transaction was ever filed, he initiated the rescission of the transaction on the purchase of the said Nissan Patrol. He communicated his decision to rescind the purchase on behalf of concerned Sangguniang Bayan and the Office of the Vice Mayor for them to pass a resolution authorizing him to enter into a rescission of the purchase. Thus, the said purchase was absolutely rescinded, and the parties returned or restored their respective prestations of the contract of consideration for each other.
14. The winning bidder, Tawi, was not the owner of the Nissan Patrol sold to the LGU. The unit was owned by Ayunting, who displayed it for sale with Oro Cars Display Center, since accused Balais sold his Nissan Patrol to Ayunting.

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15. The disbursement check for Tawi was deposited to his personal account with the BDO because Tawi asked that the disbursement check be encashed and she will receive cash payment for her to issue an official receipt therefor.

On cross²⁵, he testified that:

1. The execution of the Notice of Award was done in all good faith. It was issued based on actual conduct of competitive bidding. There is a sufficient legal authority for its issuance; and it was based on an unanimously deliberated and well-considered collective decision of the BAC based on the actual facts and figures of the official bidding process.
2. He reviewed the BAC documents before signing the Notice of Award and he knew that what was to be procured was a Nissan Patrol which he formerly owned.
3. There is an official receipt that says that the LGU paid the amount to Tawi which proves that the payment of PhP960,000.00 was received by Tawi.
4. He is aware that a Post Qualification is also a part of the entire process of public bidding, and he saw that before he signed the Notice of Award.
5. After the consummated procurement of the Nissan Patrol, he reviewed the documents and manner of bidding. He found a considerable price difference between the cost of the asset in the hands of Ayunting and the selling price paid by the LGU. For that reason, even before any complaint on the transaction was ever filed, he initiated the rescission of the transaction on the purchase of the said Nissan Patrol. He communicated his decision to rescind the purchase on behalf of the LGU, being the LCE and head of the procuring entity, to the concerned Sangguniang Bayan and the office of the Vice Mayor for them to pass a resolution authorizing me to enter into a rescission of the purchase. Thus, the said contract was absolutely rescinded and the parties returned or restored their respective prestations of the contract or consideration for each other.

On re-direct²⁶, he testified that the Deed of Sale executed by him, and Mr. Ayunting was only for Five Hundred Thousand Pesos and finding that the amount paid by municipalities of Labason was only PhP960,000.00, it came to his mind that the price difference is disadvantageous to the government and that prompted him to review.

On re-cross²⁷, he testified that he signed the Notice of Award.

DOCUMENTARY EXHIBITS

²⁵ Transcript of Stenographic Notes dated 29 March 2022.

²⁶ Ibid.

²⁷ Ibid.

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The defense then proceeded to offer the following documentary evidence. The Court admitted the following Exhibits:

EXHIBIT	DESCRIPTION
1	Disbursement Voucher No. 110-11-01-212 for a total of PhP908,571.48 with a Note: Refunded under O.R. No. 2897322 dated 05 August 2011 through SB Resolution No. 117, Series of 2011 as per Agreement for Rescission Contract dated 03 August 2011
2	Obligation Request No. 101-11-00184 for PhP960,000.00 to payment for motor vehicle (Nissan Patrol) signed by Virgilio Go and Budget Officer Aida P. Villamil
3	Bids and Awards Committee Certification dated 19 January 2011 by BAC Chairman Melchor Chipoco
4	Price Quotation by Eves Display Center, Cagayan de Oro City for PhP980,000.00
5	Price Quotation by Catmon Car Sales, Cagayan de Oro City for PhP1,100,000.00
6	Price Quotation by Oro Display Center, Cagayan de Oro City for PhP960,000.00
7	Abstract of Bids dated 19 January 2011
8	Minutes of Opening of Bids dated 19 January 2011
9	Notice of Award to Oro Cards Display Center dated 20 January 2011
10	Purchase Order dated 20 January 2011, P.O. No. 0089-11 for PhP960,000.00 to Oro Cars Display Center
11	Acceptance and Inspection Report No. 0090-11 dated 24 January 2011
12	Requisition and Issue Slip No. RIS-0091-11 dated 24 January 2011
13	Official Receipt No. 2897322 dated 05 August 2011 for PhP960,000.00 paid by Oro Cars Display Center/Eduardo Ayunting executed by Melchor Chipoco
14	Purchase Request No. 0092-11 dated 07 January 2011 for PhP1,100,000.00
15	Program Appropriation and Obligation Object for the Vice Mayor's Office
16	Program Appropriation and Obligation Object for the Sangguniang Bayan- Legislative Office
17	Business Permit of Tawi, Paz G., Oro Cars Display Center No. 2010-03804
18	DTI Registration Certificate of Oro Cars Display Center NO. 0007346 dated 08 March 2006
19	Business Permit of Saguing, Elvin Villastique No. 2010-13494
20	DTI Registration Certificate No. 000241459 of Elvin V. Saguing for EVS Car Display Center
21	Business Permit No. 0049212 for Catmon Car Sales for William B. Nuneza
22	DTI Registration No. 00419212 for Catmon Car Sales for William B. Nuneza
23	Acknowledgement Receipt for Equipment, Nissan Patrol Model No. 2011 for PhP960,000.00
24	Journal Voucher No. 100-11-01-296 for PhP960,000.00
25	Official Receipt No. 0820 of Oro Cars Display Center for PhP908,571.43 as payment for one (1) unit Nissan Patrol

27	SB Resolution No. 117, Series of 2011 dated 01 August 2011 for the rescission of the contract of sale, etc.
28	LTO Certificate of Registration No. 11850344-2 dated 14 April 2011
29	LTO Official Receipt No. 00221565 dated 14 April 2011
30	Agreement for Rescission between LGU Labason and Eduardo A. Ayunting dated 03 August 2011
31	Invitation to Apply for Eligibility and to Bid for newspaper publication on 07 January 2011 signed by the BAC Chairman
32	LTO Certificate of Registration No. 12104309-5 in the name of Eduardo Ayunting.
33	LTO Official Receipt No. 77239816 in the name of Eduardo Ayunting.
34	Special Power of Attorney by Eduardo A. Ayunting to LGU Labason dated 24 September 2012
34-A	Second page

DISCUSSION / RULING

Article 171 of the Revised Penal Code provides:

Falsification by public officer, employee; or notary or ecclesiastical minister. — 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 [as testified to by witnesses].

Based on the foregoing, the elements that the Prosecution must prove for one to be held criminally liable for the crime of Falsification of Public Documents 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, and
- (4) That such person/s did not in fact so participate in the proceeding.

The Prosecution has established beyond doubt that accused Balais is guilty of Falsification of

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*Public/Official Documents under Article 171,
paragraph 2 of the Revised Penal Code.*

*First element: Accused Balais was a public officer
at the time material to this case because he was
then the Mayor of the Municipality of Labason,
Zamboanga del Norte.*

As borne by the evidence and stipulated by the parties in the Pre-Trial Order dated 07 November 2018,²⁸ accused Balais was a public officer at the time material to this case because he was then the Mayor of the Municipality of Labason, Zamboanga del Norte, discharging administrative and official functions. The Court notes that when accused Balais signed the Notice of Award dated 20 January 2011, which is a public/official document pertaining to the procurement of the 2001 Nissan Patrol with plate number KCL 533, he did so in his capacity as the Head of the Procuring Entity.

*Second element: Accused Balais took advantage of
his position as the Local Chief Executive/ Head of
the Procuring Entity when he issued the Notice of
Award to Oro Cars Display Center.*

In the case of *Malabanan v. Sandiganbayan*,²⁹ the Supreme Court clarified that offenders are considered to have taken advantage of their official position in falsifying a document if:

- (1) They had the duty to make or prepare or otherwise intervene in the preparation of the document; or
- (2) They had official custody of the falsified document.

Accused Balais was the Head of the Procuring Entity and as such, it is incumbent upon him to issue the Notice of Award to the bidder with the Lowest Calculated Responsive Bid.³⁰ Simply said, it is accused Balais who had the duty to issue the Notice of Award to the winning bidder.

After a careful review and appreciation of facts and evidence presented, the Court finds that there was actually no public bidding conducted for the procurement of the subject vehicle. Although competitive bidding was purportedly conducted, the same was riddled with irregularities.

²⁸ Pre-Trial Order dated 24 January 2020, Records, Vol. I, pages 271-280.

²⁹ G.R. No. 186329, 02 August 2017.

³⁰ Article XI, Section 37 of the R.A. 9184.

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First, the Invitation to Apply for Eligibility and to Bid indicates “1 unit Nissan Patrol” as the Name of the Project, which violates Section 18³¹ of R.A. 9184 prohibiting reference to brand names.

Second, the proper procedure³² for the preliminary examination of bids, as laid down in Rule IX, Section 30 of the 2016 Revised Implementing Rules and Regulations of R.A. 9184, was not observed. As laid down by the Rules, the BAC should open the first envelope for each of the prospective bidder and to be rated as “passed”, all the required documents must be in the first envelope. Otherwise, the prospective buyer will be rated as “failed” and such bidder’s second envelope will no longer be considered. Only the bids where both the first and second envelopes rated as “passed” will be considered for evaluation and comparison. It bears emphasizing that the BAC has no discretion to waive any of the required documents and even if only one of the required documents is missing, the bid will be rated as “failed”.

The first envelope must contain the eligibility requirements under Section 23.1 of the Revised IRR, bid security, technical specifications³³ and sworn statement in the form prescribed by the Government Procurement Policy Board (GPPB), while

³¹ SEC. 18. Reference to Brand Names. – Specifications for the Procurement of Goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

³² Rule IX, Section 30 of the 2016 Revised Implementing Rules and Regulations Of Republic Act No. 9184:

RULE IX – BID EVALUATION Section 30. Preliminary Examination of Bids

30.1 The BAC shall open the first bid envelopes in public to determine each bidder’s compliance with the documents required to be submitted for eligibility and for the technical requirements, as prescribed in this IRR. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary “pass/fail” criterion, as stated in the Instructions to Bidders. If a bidder submits the required document, it shall be rated “passed” for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as “failed.” Otherwise, the BAC shall rate the said first bid envelope as “passed.”

Receipt of the scanned copies of the first bid envelope with the required forms prescribed in this IRR, which are for online or electronic bid submission, shall be 63 As amended by GPPB Resolution No. 09-2020, dated 7 May 2020, published in the Philippine Daily Inquirer on 15 May 2020. The 2016 Revised Implementing Rules and Regulations 73 considered as compliant with the requirements of the said bid submission, subject to the submission of the original copies of the following:

- i) bid securing declaration or other forms of bid security excluding cash, and
- ii) the omnibus sworn statement. These forms shall be submitted by the bidder to and duly received by the BAC concerned during the post-qualification stage. The non-submission of these forms on the set period shall render the bid submission as non-compliant and shall result in the post-disqualification of the bid.

30.2 Immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated “passed.” The second envelope of each complying bidder shall be opened within the same day, except as provided under Section 33 of this IRR. In case any of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC, the BAC shall rate the bid concerned as “failed.” Only bids that are determined to contain all the bid requirements for both components shall be rated “passed” and shall immediately be considered for evaluation and comparison.

Receipt of the scanned copies of the second bid envelope with the required forms such as the duly-signed bid form, price schedules, or other forms prescribed in this IRR, for electronic or online bid submission, shall be considered as compliant with the requirements of the said bid submission.

³³ Section 25.2 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184.

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the second envelope must contain the Financial Bid Form and other documents indicated in the Bid Data Sheet (BDS).³⁴

From a perusal of the evidence presented regarding the procurement of the subject vehicle, it appears that all three (3) prospective bidders should not have passed the preliminary examination of bids because not all required documents were in the envelopes. Other documents such as the tax clearance, bidder's statements, audited financial statements, computation of the Net Financial Contracting Capacity (NFCC) among others, were missing.

More so, even without referring to the requirements under the Revised IRR, and assuming that the missing documents indeed existed, the documents submitted cannot in any way be considered sufficient. The first envelope of each prospective bidder merely contained the DTI Certificates of Business Name Registration and expired Business Permits. Nowhere to be found are the documents proving each bidder's experience in undertaking similar projects with an amount of at least 50% of the proposed project for bidding, which is a requirement indicated in the Invitation to Apply for Eligibility and to Bid.³⁵ Also missing are the eligibility statements and bid security. Hence, the first envelope should have been rated as "failed".

Moreover, with regard to the irregularities in the purported bidding, there is no proof that post-qualification was conducted. Under Rule X, Section 34.1. of the Revised IRR³⁶, post qualification is mandatory, and is done to determine whether the bidder concerned complies with, and is responsive to, all the requirements and conditions specified in the bidding documents. Accused Balais even admitted when he testified in court that there was no proof of the conduct of post qualification.³⁷

In this case, it is very clear that the BAC recommended the award of the contract for the purchase of the motor vehicle solely on the basis of the price quotations contained in the second envelope, which should not have been opened in the first place. From the foregoing, it is clear that that so-called bidding is a sham.

Accused Balais, as Head of the Procuring Entity took advantage of his position when he immediately issued the Notice of Award to Oro Cars Display Center, the very next day after the BAC opened the bids, with full knowledge of the irregularities surrounding the alleged bidding and with full awareness that what was being acquired was a vehicle he previously owned.

Had he been more circumspect in the performance of his duties, he would have noticed that many of the required documents were missing. Accused Balais

³⁴ Section 25.3 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184.

³⁵ Exhibit "A-60".

³⁶ RULE X – POST-QUALIFICATION Section 34. Objective and Process of Post-Qualification 34.1 The Lowest Calculated Bid/Highest Rated Bid shall undergo post-qualification in order to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents.

³⁷ Transcript of Stenographic Notes dated 29 March 2022, pages 48-50.

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should not have approved the BAC's recommendation and at the very least, he should have inquired as to why the BAC recommended the award of the purchase contract to Oro Cars Display Center, notwithstanding the patent disregard of the prescribed procedures. He should have directed them to take corrective measures. As a matter of fact, he even cited these irregularities as a convenient ground for the rescission of the sale of the 2001 Nissan Patrol.

Third and Fourth element: Accused Balais falsified the Notice of Award by causing it to appear that the bid of Oro Cars Display Center in the amount of PhP960,000.00 was accepted, and that it had participated in the said bidding, when in fact, Oro Cars Display Center did not do so.

Falsification consisted of accused Balais' act of causing it to appear that the bid of Oro Cars Display Center in the amount of PhP960,000.00 was accepted, and that it had participated in the said bidding, when in fact it did not do so. The Notice of Award dated 20 January 2011 states as follows:

*"ORO CARS DISPLAY CENTER
Cagayan de Oro City*

Dear Sir/ Madame:

We are happy to notify that your Bid dated 10 January 2011 for execution of the Opening of Bids for the Purchase of Motor Vehicle (Nisan Patrol year 2001 model) with the contract Price of PhP960,000.00 as corrected and modified in accordance with the Instruction to Bidders is hereby accepted.

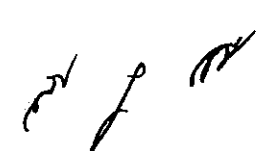
You are hereby required to provide within ten (10) days the performance security in the form and in the amount stipulated in the Instruction to Bidders. Failure to provide the performance security shall constitute sufficient ground for cancellation of the award and forfeiture of the bid security.

Very truly yours,

*WILFREDO S. BALAIS (Sgd.)
Head of the Procuring Entity
Municipal Mayor*

Conformed:

PAZ G. TAWI (Sgd.)



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ORO CARDS DISPLAY CENTER

Date: 24 January 2011”

Based on the afore-quoted Notice of Award, accused Balais made it appear that Oro Cars Display Center participated in the bidding when it submitted its bid dated 10 January 2011, when in fact it did not actually participate in the said bidding because no actual bidding as witness Tawi testified that Oro Cars Display Center never participated in the bidding. Oro Cars Display Center, the purported winning bidder, through its owner Paz G. Tawi, and Catmon Car Sales, through its owner William B. Nuñez, who were two of the alleged participants in the bidding, categorically denied having participated in any bidding process.

In Tawi's Affidavit of Undertaking dated 27 October 2015,³⁸ she attested that there was no bidding held and that the transaction between Oro Cars Display Center and accused Balais was private or just between them. In Nuñez's Affidavit of Denial dated 05 November 2015,³⁹ he attested he had no knowledge or information regarding the sale of a certain Nissan Patrol and he did not personally or through a representative participate in the bidding nor submit the Price Quotation dated 10 January 2011, involving a particular Nissan Patrol year model 2001 to the Municipality of Labason. He also confirmed that Catmon Car Sales did not submit any Price Quotation and neither has sold nor participated in the transaction of sale involving the subject Nissan Patrol to the Municipality of Labason.

Tawi also testified that she signed some documents (Price Quotation,⁴⁰ Purchase Order,⁴¹ Official Receipt,⁴² Disbursement Voucher,⁴³ Landbank Check⁴⁴ and the Notice of Award⁴⁵) in connection with the transaction but only upon the request of his close friend, Galon. She also testified that it was Galon who transacted with the Municipality of Labason, with the use of a pre-signed blank Price Quotation form. She claimed that the pertinent details in the said form such as the date, date of the Bid and the contract price in the amount of PhP960,000.00 were all in blank, when she was made to sign on it by Galon and his wife.

She had sufficiently explained the presence of her signature on various documents pertaining to the 2001 Nissan Patrol – that she was made to sign the above-mentioned documents by Galon and his wife on various separated occasions and she signed those documents based on the assurances given by Galon that there was nothing wrong in doing so and that she believed that Galon would not put her in any trouble since she considers him a good friend of hers.

³⁸ Exhibit "A-72".

³⁹ Exhibit "A-73".

⁴⁰ Exhibit "N".

⁴¹ Exhibit "J".

⁴² Exhibit "E".

⁴³ Exhibit "F".

⁴⁴ Exhibit "D".

⁴⁵ Exhibit "P".

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She further testified that Oro Cars Display Center did not receive the payment of Php908,571.43 indicated in the Disbursement Voucher. She explained that since Oro Cars Display Center did not enter into any transaction with LGU Labason or any of its officials in relation to a 2001 Nissan Patrol, there was no reason for her or Oro Cars to receive such payment.

Most importantly, she admitted that sometime in September 2015, she received a call from accused Balais who requested for a meeting at Riverview Hotel at Carmen, Cagayan de Oro City. She narrated that during her meeting with accused Balais, he asked her to admit that if anybody asks about the Nissan Patrol, she should admit that there was actually a bidding conducted regarding the said vehicle. She claimed that she refused to make such admission because she was sure that Oro Cars Display Center did not enter into any transaction involving the 2001 Nissan Patrol with LGU Labason.

Again, in the guise of an “accommodation transaction” merely to facilitate the sale of accused Balais’ 2001 Nissan Patrol with plate number KCL 533, accused Balais and Ayunting executed the “Deed of Sale of Motor Vehicle” dated 26 November 2010⁴⁶ (first deed of sale). To further distance himself from the subject vehicle, and to make it appear that there was compliance with the pertinent laws, rules and regulations, a bogus competitive bidding was resorted to.

Just one day after the purported bidding, accused Balais immediately issued the Notice of Award in favor of Oro Cars Display Center and signed Purchase Order 0089-11. The subject vehicle was delivered to and inspected by the Sangguniang Bayan and the check issued in payment for the vehicle was eventually deposited to accused Balais’ BDO account, after Tawi’s indorsement.

Accused Balais’ admitted that the check payment to Tawi was deposited in his personal bank account with BDO because Tawi asked that the disbursement check be encashed so she could receive cash payment for her to issue an official receipt for the said transaction. However, Tawi also testified that among the documents she signed was the Landbank Check No. 0001222857 dated 26 January 2011 amounting to Php908,571.43. She claimed that she signed the dorsal side of the check because of Galon’s assurance that there was nothing wrong with the transaction involving the said check and that her endorsement was needed for its encashment. Most importantly, she testified that she trusted Galon would not get her into any trouble because she considers him a good friend of hers.

Thereafter, Ayunting, now as seller of the 2001 Nissan Patrol with plate number KCL 533, executed the “Deed of Sale of Motor Vehicle” dated 28 January 2011 (second deed of sale), in favor of LGU of Labason, Zamboanga del Norte, as represented by Go. To reiterate, it is the very same vehicle which was sold by accused Balais to Ayunting on 26 November 2010.

⁴⁶ Exhibit “B”

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The Court finds that accused Balais' act of depositing the check payment to his personal bank account is contrary to logic and human experience. Tawi was a businesswoman herself and it is unbelievable that neither she or Oro Cars Display Center did not have any bank account where the check payment can be deposited or encashed. The Court is convinced that the only reason for such scheme was for accused Balais to gain some profit from the transaction. It bears reiterating that accused Balais was the owner of the 2001 Nissan Patrol with plate number KCL 533, which was sold to Ayunting for PhP500,000.00; the very same vehicle was later on acquired by the LGU of Labason, where accused Balais was the Municipal Mayor, for PhP960,000.00. Hence, the expected profit was about PhP460,000.00 which was almost double the initial sale price of the vehicle.

It is also worthy to mention that the Sangguniang Bayan in Resolution No. 117 Series of 2011 rescinded the contract as "the purchase price is quite high compared to the price when the same was first sold to the vendor, and therefore, disadvantageous to the government and the LGU would suffer lesion that would prejudice the government."

The Court notes that in the letter of Ayunting to Hon. Conchita Carpio-Morales dated 18 September 2015⁴⁷ expressing his desire to be discharged to act as a state witness, he narrated as follows:

"Sometime in August 2011, Mayor Balais came again to Cagayan de Oro City and asked me to execute a document rescinding the Deed of Sale dated January 28, 2011. He showed to me a resolution of the Sangguniang Bayan of Labason authorizing him to sign a document for the rescission of deed of sale. He told me that the purchase of the vehicle by the LGU of Labason was disallowed by the Commission on Audit and there is a need to cancel the Deed of Sale. He also told me that because of the disallowance, LGU of Labason was not able to release the payment of the vehicle.

By virtue of the resolution of the Sangguniang Bayan of Labason showed to be my Mayor Balais, I and Mayor Balais again appeared before a notary public and executed "Agreement for Rescission Contract" dated August 03, 2011. He again asked me to look for any prospective buyer of the vehicle. However, by that time, I declined from (sic) his request."

⁴⁷ Exhibits "A-46" to "A-49"

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Further, in accused Balais' re-cross examination,⁴⁸ he was not able to provide a satisfactory explanation as to why he did not mention in his Judicial Affidavit that the subject vehicle was previously his, to wit:

“PROSECUTOR MURING

Q: *So, Mr. Witness, did you not find it strange, Mr. Witness to be honest that you never mention in your Judicial Affidavit that this particular vehicle was actually formerly owned by you?*

WITNESS

A: *Sir?*

PROSECUTOR MURING

Q: *You did not mentioned (sic) in your Judicial Affidavit that the vehicle was formerly owned you, correct, yes or no?*

WITNESS

A: *Yes, Sir.*

PROSECUTOR MURING

Q: *Yes, you did not mention?*

WITNESS

A: *Yes, Sir.*

PROSECUTOR MURING

Q: *Okay, Mr. Witness, you did not see anything wrong with the fact that the LGU Labason was procuring a vehicle formerly owned by you even granting that the vehicle was sold to Ayunting as accommodation as you earlier testified?*

WITNESS

A: *.. NO ANSWER.*

PROSECUTOR MURING

Q: *You see nothing wrong with that, do you understand Mr. Witness?*

⁴⁸ Transcript of Stenographic Notes dated 29 March 2022, pages 65-72.

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WITNESS

A: Will you please repeat the question please (sic).

PROSECUTOR MURING

Q: Okay, Mr. Witness, I was asking you, in your Judicial Affidavit, you never mention the fact that this particular vehicle subject of the Notice of Award, subject of the information of this case, you never mention in your Judicial Affidavit that the vehicle was formerly owned by you, correct?

WITNESS

A: Yes, Sir.

PROSECUTOR MURING

Q: Okay, Mr. Witness, you made two reviews on this case prior review before you signed the Notice of Awards and the second review wherein you found the discrepancies and then therefore, the decision, you never sited (sic) in your decision that additional fact that the bidding vehicle was formerly owned by you?

WITNESS

A: Can I say it in tagalog, can I answer in Tagalog para po maka explain ako?

*I can hardly explain....
INTERRUPTED.*

CHAIRMAN:

Let him answer.

PROSECUTOR MURING:

No, your Honor.... INTERRUPTED.

CHAIRMAN:

Let him answer in tagalog this time.

WITNESS

A: Some of my.... INTERRUPTED.

COURT INTERPRETER:

You can answer in tagalog po.

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WITNESS

A: *The question is I am not aware....INTERRUPTED.*

CHAIRMAN:

No, ito lang ang question kase ang ahba haba naman kasi Prosecutor Muring ng question.

PROSECUTOR MURING:

Sorry, your Honor.

CHAIRMAN:

Did you see anything wrong, may roon po ba kayong nakikitang mali na ang binili ng LGU Labason ay dating sasakyan na pag-aari mo, hindi ka ba naka isip na mayroon na mali doon?

WITNESS

A: *Yes, your Honor, I saw that there is something wrong, your Honor.*

PROSECUTOR MURING

Q: *But yet, Mr. Witness, you proceeded to sign the Notice of Awards?*

WITNESS

A: *Because nakita ko na....
INTERRUPTED.*

PROSECUTOR MURING

Q: *No, you are not responsive, Mr. Witness, what I am telling you is that you answered earlier, that you noticed that the vehicle to be purchased was vehicle formerly owned by you?*

WITNESS

A: *Yes, Sir.*

PROSECUTOR MURING

Q: *And yet you signed the Notice of Awards despite the knowledge that it was the same vehicle formerly owned by you?*

WITNESS

A: *No Sir.*

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CHAIRMAN:

Wait, anyway, the Notice of Awards, the witness did not deny signing the Notice of Award, Prosecutor Muring, so I think your point is already settled, okay, no more questions?

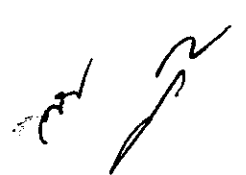
PROSECUTOR MURING: No more, your Honor."

Given the discrepancy between what accused Balais told Ayunting and his testimony in court, it can be deduced that the rescission of the sale transaction involving the 2001 Nissan Patrol with plate number KCL 533 was clearly an afterthought by accused Balais fearing that eventually his scheme would be unravelled. It is unbelievable that accused Balais did not know that what was sold to LGU Labason was his 2001 Nissan Patrol. Secondly, it corroborates Tawi's statement that during her meeting with accused Balais, he asked her to admit that should anybody ask about the Nissan Patrol, she should admit that there was actually a bidding conducted regarding the said vehicle. She claimed that she refused to make such admission because she was sure that Oro Cars Display Center did not enter into any transaction involving the 2001 Nissan Patrol with LGU Labason. Evidently, all of these were just part of accused Balais'scheme to profit from the said sale.

Finally, and although the purchase contract had been rescinded, the said rescission or cancellation only had the effect of restoring to the LGU of Labason the funds paid for the subject vehicle and would not exempt accused Balais' from criminal liability. Otherwise, public officers will be free to enter into anomalous transactions, in contravention of the law, and easily evade criminal liability by immediately cancelling such anomalous transactions when they get hold of information that criminal charges will be filed against them, using such anomalies as a convenient ground for the cancellation of the transaction.

In this case, the Court is convinced that the guilt of accused Balais was proven beyond reasonable doubt. The totality of the facts and circumstances demonstrates that he committed the crime of Falsification of Public/Official Documents under Article 171, paragraph 2, of the Revised Penal Code, when he falsified the Notice of Award dated 20 January 2011 by causing it to appear that Oro Cars Display Center had participated in the said bidding by submitting a bid of PhP960,000 when in fact, Oro Cars Display Center did not do so. The moral certainty required in criminal cases has been adequately satisfied.

WHEREFORE, premises considered, the Court renders judgment, as follows:



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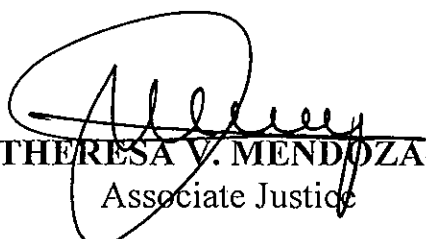
Wilfredo Subido Balais is **GUILTY BEYOND REASONABLE DOUBT** for Falsification of a Public/Official Document, under Article 171, paragraph 2 of the Revised Penal Code.

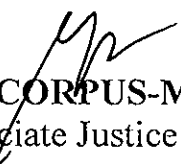
Accordingly, the Court imposes on him an indeterminate penalty of **TWO (2) YEARS, FOUR (4) MONTHS AND ONE (1) DAY, as minimum, to FOUR (4) YEARS AND TWO (2) MONTHS, as maximum,** and a fine in the amount of **TEN THOUSAND PESOS (PhP10,000.00).**

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice


MARYANN E. CORPUS-MAÑALAC
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 Decision.


RAFAEL R. LAGOS
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above

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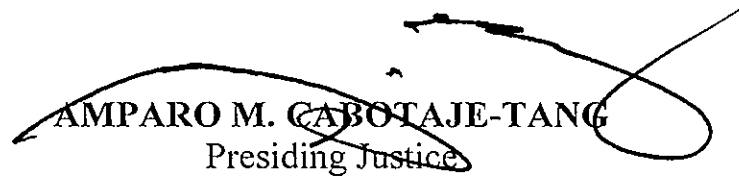
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decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

