

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

FIFTH (5th) DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

CASE NO. SB-22-A/R-0007

FOR: Falsification by Public
Officer under Article 172,
Par. 4 of the RPC

- versus -

Present:
LAGOS, J., *Chairperson*
MEDOZA-ARCEGA, J.
CORPUS-MAÑALAC, J.

DELIA VILLAMIL MORALA,
Accused-Appellant.

Promulgated:
November 11, 2022
Genel El Gran

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D E C I S I O N

LAGOS, J.:

This is an appeal from the Decision¹ dated January 19, 2022 of the Regional Trial Court (RTC) of Manila, Branch 21, National Capital Judicial Region, in Criminal Case No. 1800791, finding accused-appellant Delia Villamil Morala guilty beyond reasonable doubt of the crime of Falsification by Public Officer under Article 171, paragraph 4 of the Revised Penal Code (RPC), as amended.

Antecedents

Accused-appellant was charged with the crime of falsification under Art. 171(4) of the RPC in twelve (12) sets of analogous Information (Criminal Case Nos. R-MNL-18-00784-CR to R-MNL-18-00795-CR), all dated November 9, 2017, each pertaining to the alleged untruthful statements contained in her Statements of Assets, Liabilities, and Net Worth (SALN) for the years 2003 to 2014. The Information² in **Criminal Case No. 18-00791**, subject of the appealed decision and concerning accused-appellant's **2010 SALN**, specifically reads, as follows:

¹ Records, pp. 53-83

² *Ibid.*, pp. 11-13

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“That on or about March 29, 2011, or for some time prior or subsequent thereto, in the City of Manila, and within the jurisdiction of this Honorable Court, accused DELIA VILLAMIL MORALA, a low-ranking public officer, with Salary Grade 20, being an employee of the Bureau of Customs, City of Manila, taking advantage of her position, did there and there, willfully, unlawfully and criminally make false statements in a narration of facts in her **2010 Statement of Assets, Liabilities and Net Worth**, the truth of which she is legally bound to disclose, by 1) not declaring the following business interest, and properties registered under the names of her daughters Melissa, Maria Cristina and Madel, all surnamed Morala, which she actually owns as her daughters have no financial capacity to purchase the same, to wit:

- a) **her business interest in Mortadella Corporation and Moravilla Real Estate Corporation in view of the fact that her husband, Mariano G. Morala, is an incorporator and stockholder thereof;**
- b) a parcel of land in Intramuros, Manila covered by Transfer Certificate of Title No. 257756;
- c) four parcels of land in Pangasinan covered by Transfer Certificate of Title Nos. 26236, 26237, 26238 and 26239;
- d) two parcels of land in Intramuros, Manila covered by Transfer Certificate of Title Nos. 290808 and 290809 (under the name of Madel only); and

2) declaring that she has a real property in Las Piñas City, when in truth and in fact, as the accused well knew that she already sold her Las Pinas property in 2004, to the prejudice of public interest.

CONTRARY TO LAW” (*Emphasis and underscoring ours*)

A warrant of arrest³ was issued against accused-appellant, who subsequently posted bail for her provisional liberty.⁴ Upon arraignment, she pleaded not guilty to the offense charged.⁵

After the pre-trial was terminated, trial on the merits ensued.

³ Original Records, Vol. I, p. 567

⁴ *Id.*, pp. 570-574

⁵ RTC Order dated April 13, 2018 (*Id.*, p. 582)

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Prosecution Evidence

Briefly, the prosecution's case was built on the testimony of its witnesses who presented and identified documents to establish that: (a) several real properties in Intramuros, Manila⁶ and in Pangasinan⁷ are registered under the names of accused-appellant's children but were not declared in her SALNs; (b) accused-appellant's children have no financial capacity to purchase said real properties; (c) accused-appellant misdeclared a real property in Las Piñas City⁸ which she already disposed of; and (d) accused-appellant did not declare her husband's business interests in Mortadella Corporation ["Mortadella"] and in Moravilla Real Estate Corporation ["Moravilla"].

The prosecution presented officers from the Registry of Deeds of Manila,⁹ Pangasinan,¹⁰ and Las Piñas City¹¹ to identify land titles pertaining to the subject real properties, and an officer from the Bureau of Internal Revenue (BIR) to testify with regard to the BIR certification¹² which shows that no income tax returns were filed by accused-appellant's children for the taxable years 2002 to 2012.

Particularly as regards the allegation of accused-appellant's non-declaration of business interests in Mortadella and Moravilla corporations, Atty. RJ Bernal¹³ of the Securities and Exchange Commission (SEC) was presented to identify said corporations' Certificates of Incorporation, Treasurer's Affidavits, respective Articles of Incorporation and By-Laws, wherein Mariano Morala, husband of the accused-appellant, is listed as one of its incorporators and shareholders.¹⁴

In addition, Joseph Escasio,¹⁵ chief administrative officer of the human resources division of the Bureau of Customs (BOC), was presented to identify accused-appellant's employment records, including her SALNs from 2003 to 2014,¹⁶ and to testify that accused-appellant, who served as Customs Operations Officer V, compulsory retired from the BOC in 2016, having been found guilty by the Office of the Ombudsman (OMB) of

⁶ Exhibits "O" and "P" (Original Records, Vol. II, pp. 255-363); Exhibit "W" (*Id.*, pp. 388-391), and Exhibits "FF" to "II" (*Id.*, pp. 471-486)

⁷ Exhibit "X" (*Id.*, pp. 392-394), and Exhibits "Q" to "T" (*Id.*, pp. 364-379)

⁸ Exhibits "U" and "V" (*Id.*, pp. 380-387), and Exhibits "DD" and "EE" (*Id.*, pp. 48-55)

⁹ Angelo Macandog – Judicial Affidavit dated January 10, 2019 (*Id.*, pp. 106-113) and Transcript of Stenographic Notes (TSN) dated January 18, 2019 and February 15, 2019

¹⁰ Estela Cacho – Judicial Affidavit dated August 23, 2018 (*Id.*, pp. 143-147) and TSN dated March 14, 2019

¹¹ Alvin Alfred Raval – Judicial Affidavit dated August 23, 2018 (*Id.*, pp. 39-43) and TSN dated September 27, 2018

¹² Andreliza Cala – Judicial Affidavit dated March 5, 2019 (*Id.*, pp. 167-174) and TSN dated March 14, 2019

¹³ Judicial Affidavit dated September 7, 2018 (*Id.*, pp. 60-71); TSN dated November 28, 2018

¹⁴ Exhibits "Y" and submarkings to "Z" and submarkings (*Id.*, pp. 72-105)

¹⁵ Judicial Affidavit dated June 21, 2018 (*Id.*, pp. 6-13)

¹⁶ Exhibits "A" and "B" (*Id.*, pp. 334-338)

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Serious Dishonesty and meted with the penalty of dismissal from the service.¹⁷

Lastly, Jesus Bueno¹⁸ of the Department of Finance-Revenue Integrity Protection Service [“DOF-RIPS”], who investigated the accused-appellant on allegations of unexplained wealth, and filed the complaint¹⁹ which became the basis of these cases, was presented to corroborate the testimonies of the other witnesses. Through his testimony, the prosecution asserted that while accused-appellant indicated the word “separated” on the space intended for the name of the spouse for her 2011 to 2014 SALN, their marriage has not been declared null and void, hence, she was legally bound to declare all the business interests of her husband.²⁰

The trial court admitted all the evidence formally offered by the prosecution.²¹

Thereafter, accused-appellant, with leave of court, filed a Demurrer to Evidence, which was partially granted by the trial court, dismissing Criminal Case No. 18-00784. With respect to the other eleven (11) cases, the demurrer to evidence was denied.²²

Defense Evidence

The defense presented its sole witness, accused-appellant Delia V. Morala,²³ who testified that the DOF-RIPS charged her with an administrative, a criminal, and a forfeiture action before the Ombudsman, with the latter having been dismissed.²⁴

Regarding the alleged non-declaration of real properties registered under the names of her children, accused-appellant argued that all of them were not “below 18 years of age” at the time of filing of the subject SALNs and that she did not have any participation in the acquisition of the parcels of land in question. She added that the BIR certification did not establish anything regarding the financial capabilities of her children. As to the Las Piñas property, she contended that the set of criminal information failed to specify the title, location, and technical particulars of the subject parcel of land.

¹⁷ TSN dated June 25, 2018 and August 2, 2018

¹⁸ Judicial Affidavit dated March 25, 2019 (Original Records, Vol. II, pp. 181-193)

¹⁹ Exhibit “CC” (*Id.*, pp. 430-470)

²⁰ TSN dated April 5, 2019

²¹ RTC *Order* dated May 24, 2018 (Original Records, Vol. II, p. 502)

²² RTC *Order* dated September 19, 2019 (Original Records, Vol. III, pp. 2-14)

²³ Judicial Affidavit dated August 18, 2020 (*Id.*, pp. 74-105)

²⁴ OMB *Joint Resolution* dated November 8, 2017 (*Id.*, pp. 121-133)

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As regards the alleged business interests of her husband, Mariano Morala, accused-appellant explained that while she knew that her husband is a businessman, she was not aware that he became an incorporator and shareholder of both Mortadella and Moravilla corporations until their respective Articles of Incorporation were presented in court. She claimed that they were already separated in fact since 1992 after Mariano left the conjugal home, and that they never saw each other thereafter. As to her children, all of them were fully emancipated by 2003, and from then on, accused-appellant has been living on her own. To further justify her non-declaration of the business interests of Mariano, she argued that the prosecution failed to present the General Informations Sheets (GIS) of Mortadella from 2009 to 2015, and that of Moravilla from 2011 to 2015, to prove that her husband retained his shareholding in Mortadella for the rest of 2008 onwards, or in Moravilla for the rest of 2010 onwards. Hence, there is no basis for the claim that she was duty-bound to declare these alleged business interests in her SALNs.

On cross-examination, accused-appellant maintained that she never saw Mariano again since 1992 and claimed that he was only able to sign her SALNs through the help of her children. She added that Mariano did not rectify the missing details in the subject SALNs pertaining to his business interests, and that her children also failed to mention the existence of these businesses to her. She denied knowledge of both Mortadella and Moravilla corporations, but conceded that their respective principal offices, as written in their AOIs, pertain to and are the same with her residence address which is also their conjugal home.²⁵

The defense formally offered its evidence²⁶ which were admitted by the trial court.²⁷

Thereafter, the cases were submitted for decision.

Trial Court's Ruling

On June 6, 2022, the trial court promulgated its Decision²⁸ finding the accused-appellant guilty beyond reasonable doubt of the crime charged in **Criminal Case No. 18-00791** only, the dispositive portion of which reads, as follows:

“WHEREFORE, judgment is hereby rendered as follows:

²⁵ TSN dated July 19, 2021

²⁶ Exhibits “1” to “4,” “7,” “13,” and “24” to “27” (Original Records, Vol. III, pp. 106-137)

²⁷ RTC *Order* dated October 15, 2021 (*Id.*, p. 269)

²⁸ *Supra*, note 1

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1. Accused DELIA VILLAMIL MORALA is hereby ACQUITTED of the crime charged in the respective Information for ten (10) counts of Falsification by Public Officer under Article 171, par. 4 of the Revised Penal Code dated November 9, 2017 docketed as Criminal Case Nos. R-MNL-18-00785-CR, R-MNL-18-00786-CR, R-MNL-18-00787-CR, R-MNL-18-00788-CR, R-MNL-18-00789-CR, R-MNL-18-00790-CR, R-MNL-18-00792-CR, R-MNL-18-00793-CR, R-MNL-18-00794-CR, and R-MNL-18-00795-CR for failure of the prosecution to prove her guilt beyond reasonable doubt.

2. Accused DELIA VILLAMIL MORALA is hereby found **GUILTY** beyond reasonable doubt of Falsification by Public Officer under Article 171, par. 4 of the Revised Penal Code in **Criminal Case No. R-MNL-18-00791-CR** and there being no modifying circumstances, accused is sentenced to suffer an indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY OF *Prision Correccional medium* as the minimum penalty to EIGHT (8) YEARS and ONE (1) DAY of *Prision Mayor medium* as the maximum penalty and to pay a FINE of FIVE THOUSAND PESOS (₱5,000.00).

SO ORDERED.” (*Emphasis ours*)

The trial court found accused-appellant not liable under Art. 171(4) with regard to the allegations of non-declaration of a parcel of land in Intramuros, Manila, (covered by Criminal Case Nos. 18-00785 to 91) and four (4) others in Pangasinan (Crim. Case Nos. 18-00785 to 95) registered in the names of accused-appellant’s children, and another two (2) parcels of land in Intramuros registered in the name of one of her children (Crim. Case Nos. 18-00791 to 95), due to the fact that all of them were already above eighteen (18) years old when the subject SALNs were filed.²⁹ As such, accused-appellant has no legal duty to declare these properties pursuant to Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees,” and its implementing rules. Likewise, accused-appellant was not liable for the alleged misdeclaration of the Las Piñas property (Crim. Case Nos. 18-00785 to 95) as the charges in the set of criminal information were not specific as to the title, location, and technical particulars of the property concerned.

²⁹ Subject of Admissions/Stipulations per *Pre-Trial Order* dated May 11, 2018 (Original Records, Vol. II, pp. 2-5)

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As to the non-declaration of business interests in Mortadella (Crim. Case Nos. 18-00789 to 95) and Moravilla (Crim. Case Nos. 18-00792 to 95) corporations, the trial court also found no liability on the part of the accused-appellant due to the prosecution's failure to present as evidence the General Information Sheets (GIS) of these corporations for the years 2008 to 2014 and 2011 to 2014, respectively, or in lieu thereof, a SEC certification showing non-submission of GIS, to substantiate the shareholdings of her husband in the two corporations. Thus, all of the cases filed were dismissed, except for **Criminal Case No. 18-00791**.

The peculiarity of this case is that it pertains to the 2010 SALN of the accused-appellant, the year Moravilla Real Estate Corporation was incorporated and for which the prosecution was able to adduce evidence that Mariano Morala, her husband, became an incorporator and a shareholder. As such, the court *a quo* explained that the business interest of accused-appellant's spouse in Moravilla should have been reflected in her 2010 SALN, the coverage of which includes, among others, business interests as of December 31, 2010. The company was incorporated in 2010, hence, it was not imperative for the prosecution to produce in court a General Information Sheet of Moravilla for that year, since such document shall only be filed after its first annual stockholders meeting in 2011. It was sufficient that Moravilla's Certificate of Incorporation, dated January 27, 2010, and its Articles of Incorporation, executed January 15, 2010, were submitted in evidence. If Mariano Morala did not retain his shareholdings in Moravilla on or before December 31, 2010, the defense should have presented evidence to that effect, the trial court added.

Therefore, since it was indicated in the accused-appellant's 2010 SALN that her spouse is a businessman, yet she ticked the box for "NO" to the question "*Do you have any interests and other financial connections including those of your spouse and unmarried children below 18 years of age living in your household?*" under "B. BUSINESS INTEREST AND FINANCIAL CONNECTIONS" portion of the document, an untruthful statement was made therein, which serves as the basis for her liability under Art. 171(4) of the RPC.

The court *a quo* did not give credence to accused-appellant's claim that she was unaware of the fact that her husband became an incorporator of Moravilla as they were already living separately at the time. These are mere statements sans proof, said the trial court, which, on the other hand, gave more consideration to the fact that the location of Moravilla's principal office, as indicated in its AOI, is the same as the conjugal home of the spouses Morala, where accused-appellant was residing at the time material to the case.

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In ruling against the accused-appellant, the trial court cited the consolidated cases of *Galeos v. People*³⁰ and *Ong v. People*³¹ [“Galeos and Ong”] wherein accused Galeos made an untruthful statement in his SALN and was found guilty of falsification under Art. 171(4) when he checked the box for “NO” to the question of whether he has relatives in the government service within the fourth degree of consanguinity, when in truth, he is related to accused Ong within the said degree as they are first cousins. Finding resemblance with the present case, the trial court held that since accused-appellant answered “no” in her 2010 SALN regarding any business interest that she has, contrary to the fact that her husband became an incorporator and shareholder of Moravilla, the act of making an untruthful statement in a public document was consummated, hence, she is guilty beyond reasonable doubt of the crime charged.

Accused-appellant moved for partial reconsideration of the decision, which the trial court denied in an Order dated April 17, 2022.³²

Accused-appellant filed her Notice of Appeal³³ dated May 11, 2022, which was given due course by the court *a quo*.³⁴ The records of the case were forwarded to the Sandiganbayan, and thereafter, the Court received the Accused-Appellant’s Brief³⁵ on August 3, 2022.

The Office of the Ombudsman, having been granted an extension of time,³⁶ filed its Plaintiff-Appellee’s Brief on October 7, 2022.³⁷

Assignment of Errors

In the Accused-Appellant’s Brief, accused-appellant Morala imputes the following errors allegedly committed by the trial court:

“A.

The court *a quo* committed a reversible error in adjudging that accused-appellant is guilty of falsification under Article 171, paragraph 4 of the Revised Penal Code, with respect to accused-appellant’s 2010 SALN.

³⁰ G.R. Nos. 174730-37, February 9, 2011

³¹ G.R. Nos. 174845-52, February 9, 2011

³² Records, pp. 84-87

³³ *Id.*, pp. 88-93

³⁴ *Id.*, p. 95

³⁵ *Id.*, pp. 160-198

³⁶ *Minute Resolution* dated September 29, 2022 (*Id.*, p. 239) granting the *Motion for Extension of Time to File Appellee’s Brief* dated September 5, 2022 (*Id.*, pp. 235-237)

³⁷ Sent by registered mail and received by the Court on October 13, 2022 (*Id.*, pp. 242-257)

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B.

The court *a quo* committed a reversible error in failing to appreciate and apply the Supreme Court's pronouncement in the case of **Respicio v. People of the Philippines** [G.R. No. 178701 and 178754, 6 June 2011] in accused-appellant's favor, under the *in dubio pro reo* principle.

C.

The court *a quo* committed a reversible error in ruling that—with respect to the question in accused-appellant's 2010 SALN, "*Do you have business interests and other financial connections including those of your spouse and unmarried children below 18 years of age living with you in your household?*" under item "B. BUSINESS INTEREST AND FINANCIAL CONNECTIONS"—accused-appellant's answer of "NO" constitutes an unlawful statement as to render accused-appellant liable for falsification under Article 171, paragraph 4 of the Revised Penal Code."

Essentially, accused-appellant posits that the trial court erred in adjudging her guilty of falsification on the basis of her having answered "no" to the question in the SALN of whether she has business interests including that of her spouse and unemancipated children, when in fact, her husband became an incorporator and shareholder of Moravilla Real Estate Corporation. Citing jurisprudence, she asserts that she is not liable for the crime of falsification under Art. 171(4) of the RPC.

First, accused-appellant raises the point that one of the elements of Art. 171(4), as enumerated in the case of *Respicio v. People*³⁸ ["Respicio"], is not present in this case – that "such untruthful statements are **not** contained in an affidavit or statement required by law to be sworn in."³⁹ Therefore, as the alleged untruthful statement was made in the SALN, a document required by law to be submitted under oath, at least one of the elements of the crime charged is lacking. However, since the enumeration of the elements of Art. 171(4) in *Galeos* and *Ong*⁴⁰ is different and does not

³⁸ G.R. Nos. 178701 and 178754, June 6, 2011

³⁹ "The elements of falsification under paragraph 4 of Article 171 of the Revised Penal Code for which petitioner was likewise charged are:

- a) the offender is a public officer;
- b) the accused takes advantage of his official position;
- c) accused knows that what he imputes is false;
- d) the falsity involves a material fact;
- e) there is a legal obligation for him to narrate the truth;
- f) and such untruthful statements are not contained in an affidavit or a statement required by law to be sworn in." (*Id.*)

⁴⁰ "The elements of falsification in the above provision are as follows:

- (a) the offender makes in a public document untruthful statements in a narration of facts;

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include this particular element found in *Respicio*, accused-appellant denotes that a doubt exists as to what jurisprudence should be applied in her case. Invoking the *in dubio pro reo* principle, she contends that the latter case of *Respicio* is controlling since doubts should be resolved in favor of the accused. She asserts that the *Respicio* case is more favorable to her as an accused as it includes in its enumeration of elements one that is absent in the present case.

Also, accused-appellant disputes the trial court's pronouncement that the *Galeos* case, which involves falsification of the SALN, is on all fours with the facts of the present case and is, therefore, more applicable than *Respicio*, which has nothing to do with the SALN.⁴¹ She counters that *Galeos* particularly deals with declaration of relationships in the SALN, whereas the present case concerns declaration of business interests. She further insists that *Respicio* should be applied as it is a more recent case.

Lastly, accused-appellant argues that it was never the case that she intended to conceal her business interests or that of her husband. Citing the authorities laid down in *Pleyto v. PNP-CIDG*⁴² and *Ombudsman v. Bernardo*,⁴³ she explains that by indicating in her 2010 SALN that her husband is a businessman, it can be logically deduced that her spouse has business interests, and that the indication of his occupation would be inconsistent with the intention to conceal such interest as it is readily apparent on the face of the SALN – it manifested her intent to divulge, not to conceal, the business interests of her spouse.

Appellee's Counter-Arguments

In its Plaintiff-Appellee's Brief, the Office of the Ombudsman maintains that the trial court did not commit any reversible error in convicting the accused-appellant as all of the elements of Art. 171(4) were duly established by the prosecution.

To contest accused-appellant's invocation of *Respicio v. People*,⁴⁴ plaintiff-appellee asserts that the elements of Art. 171(4) as cited in the consolidated cases of *Galeos v. People* and *Ong v. People*⁴⁵ are, in essence, repeatedly declared and doctrinally identified by the Supreme Court in a

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- (b) he has a legal obligation to disclose the truth of the facts narrated by him; and
 - (c) the facts narrated by him are absolutely false.

In addition to the afore-cited elements, it must also be proven that the public officer or employee had taken advantage of his official position in making the falsification. [x x x]"

⁴¹ As contained in the *Order* denying the motion for partial reconsideration, *supra* note 32

⁴² G.R. No. 169982, November 23, 2007

⁴³ G.R. No. 181598, March 6, 2013

⁴⁴ *Supra*, note 38

⁴⁵ *Supra*, notes 30 and 31

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long line of cases.⁴⁶ On the other hand, *Respicio*, which appears to have added the element that “such untruthful statements are not contained in an affidavit or statement required by law to be sworn in,” was not decided by the Supreme Court sitting *en banc* and no statement was made therein abandoning or modifying previous decisions identifying the elements of Art. 171(4). Hence, it is not controlling. In addition, *Respicio*, in stating the elements of the crime, cited *Lecaroz v. Sandiganbayan*,⁴⁷ but the latter case did not make any pronouncement that the “additional element” being invoked by accused-appellant is one of the essential elements Art. 171(4).

As to the cases of *Pleyto v. PNP-CIDG* and *Ombudsman v. Bernardo*,⁴⁸ which the accused-appellant seeks to be appreciated in her favor, plaintiff-appellee argues that being administrative actions, these do not find application in the present criminal case. Furthermore, the factual backdrops of these cases are different. In *Pleyto*, the declarant of the SALN failed to answer the question of whether he has any business interest, while in *Bernardo*, the declarant indicated “Not Applicable.” In the present appeal, accused-appellant answered “no” to the same question, which is an absolute falsity.

RULING

The Court finds the appeal meritorious, albeit on a different ground.

At the outset, let it be underscored that an appeal in criminal cases opens the entire case for review, and that the appellate court can correct errors unassigned in the appeal.⁴⁹

Herein accused-appellant is charged with the crime of Falsification by Public Officer under Article 171, paragraph 4 of the Revised Penal Code, which provides:

“ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his

⁴⁶ Citing *Siquian v. People* (see note 56); *Layno v. People*, G.R. No. 93842, September 7, 1992; *Layug v. People*, G.R. Nos. 121047-57, August 16, 2000; *Santos v. Sandiganbayan*, G.R. Nos. 71523-25, December 8, 2000; *Giron v. Sandiganbayan*, G.R. Nos. 145357-59, August 23, 2006; *Delos Reyes v. People*, G.R. No. 186030, March 21, 2012; *People v. Saludaga*, G.R. No. 197953, August 5, 2015; *Liwanag v. People*, G.R. No. 205260, July 29, 2019; *Mathay v. People*, G.R. No. 218964, June 30, 2020; *DOF-RIPS v. OMB and Germar* (see note 59)

⁴⁷ G.R. No. 130872, March 25, 1999

⁴⁸ *Supra*, notes 42 and 43

⁴⁹ *People v. Montinola*, G.R. No. 178061, January 31, 2008; *People v. De la Torre*, G.R. No. 176637, October 6, 2008; *Ramos v. People*, G.R. No. 218466, January 23, 2017; *Casilac v. People*, G.R. No. 238436, February 17, 2020

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official position, shall falsify a document by committing any of the following acts:

[x x x]

4. Making untruthful statements in a narration of facts;

[x x x]"

In order to establish guilt under Article 171(4), the following elements, settled in jurisprudence, must be satisfied:

“Generally, the elements of Article 171 are: (1) the offender is a public officer, employee, or notary public; (2) he takes advantage of his official position; and (3) that he falsifies a document by committing any of the ways it is done.

Specifically, paragraph 4 of the said Article requires that: (a) the offender makes in a public document untruthful statements in a narration of facts; (b) the offender has a legal obligation to disclose the truth of the facts narrated by him; and (c) the facts narrated by the offender are absolutely false.

In addition to the aforesaid elements, it must also be proven that the public officer or employee had taken advantage of his official position in making the falsification. In falsification of public document, 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.⁵⁰ (*Underscoring and italicization ours; citations omitted*)

“Every crime is defined by its elements, without which there should be, at the most, no criminal offense.”⁵¹ Thus, in every criminal action, the prosecution must prove beyond reasonable doubt all the elements of the crime charged, as well as the complicity of the accused.⁵² It is the presumption of innocence guaranteed by the Constitution that lays such burden upon the prosecution.⁵³

In the present appeal, the court *a quo* found the concurrence of all the elements of Art. 171(4) on the basis of prosecution evidence which established: that accused-appellant is a public officer at the time material to the case; that she made an untruthful statement in her 2010 SALN, a public

⁵⁰ *Mayor Amado Corpuz, Jr. v. People*, G.R. Nos. 212656-57, November 23, 2016

⁵¹ *Aguilar v. Department of Justice*, G.R. No. 197522, September 11, 2013

⁵² *People v. Maraorao*, G.R. No. 174369, June 20, 2012

⁵³ *Macayan, Jr. v. People*, G.R. No. 175842, March 18, 2015

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document which elicits information that qualifies as a narration of facts, by answering “no” to the question therein as to whether she, her spouse, or any of her unemancipated children has any business interest; that this is absolutely false as her husband is an incorporator and shareholder of Moravilla in 2010; and that she has legal obligation to disclose this fact but failed to do so.

However, as to the element of taking advantage of one’s official position, the appealed decision did not include a specific discussion explaining how accused-appellant took advantage of her office or position to commit the alleged falsification of her SALN. The trial court merely quoted the citation of jurisprudence in the consolidated cases of *People v. Galeos* and *People v. Ong* regarding the instances when an offender is considered to have taken advantage of his or her official position. Nevertheless, it emphasized the duty of public officers and employees to prepare and submit their SALN pursuant to Sec. 8 of R.A. No. 6713 and Sec. 1, Rule VII of its implementing rules⁵⁴ – ruling implicitly that the accused-appellant has taken advantage of her official position when, as part of her duties, she prepared her SALN but made an untruthful statement therein.

“In falsification of public documents, 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.”⁵⁵ As early as the case of *Siquian v. People*,⁵⁶ the Supreme Court explained that this essential element requires that the offender either abused his or her office or used the influence, prestige, or ascendancy which the office gives him or her in committing the crime.⁵⁷

To be sure, public officials and employees have an obligation to accomplish and submit a SALN.⁵⁸ The issue here, however, is whether the obligation or duty to prepare a SALN, when attended by some mistake or transgression, may be sufficient to establish the element of taking advantage of one’s official position under Art. 171(4), without showing in particular how one’s office was used or abused to facilitate the alleged falsification. Even the consolidated cases of *Galeos* and *Ong*, mainly relied upon by the trial court in convicting herein accused-appellant, did not include a discussion as to how accused Galeos was able to take advantage of his position in falsifying his SALN, in contrast to accused Ong, whom the Supreme Court explicitly declared to have taken advantage of his position as

⁵⁴ “Code of Conduct and Ethical Standards for Public Officials and Employees”

⁵⁵ *Fullero v. People*, G.R. No. 170583, September 12, 2007; *Malabanan v. Sandiganbayan*, G.R. No. 186329, August 2, 2017; *Torres v. Court of Appeals*, G.R. No. 241164, August 14, 2019; *Ombudsman v. Santidad*, G.R. No. 207154, December 05, 2019

⁵⁶ G.R. No. 82197, March 13, 1989

⁵⁷ *Ibid.*, citing *U.S. v. Rodriguez*, 19 Phil. 150 (1911)

⁵⁸ R.A. No. 6713, Sec. 8 (Also: Art. XI, Sec. 17 of the 1987 Constitution; Sec. 7 of R.A. No. 3019 or the “Anti-Graft and Corrupt Practices Act”)

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the appointing authority (OIC-Municipal Mayor) in issuing a certification specifically required of his office.

Recent jurisprudence, however, specifically addressed this issue. In *Department of Finance - Revenue Integrity Protection Service [DOF-RIPS] vs. OMB and Clemente Del Rosario Germar*,⁵⁹ it was clarified that no office or position can be taken advantage of when it comes to the preparation of SALN, explained in this wise:

“In this case, the element of taking advantage of one's position is patently lacking. There is no showing that private respondent had the duty to make or prepare, or otherwise, to intervene in the preparation of the SALNs, or he had the official custody of the same. Taking advantage of one's official position for the purpose of committing falsification of public document under Article 171 "is considered present when the offender falsifies a document in connection with the duties of his office which consist of either making or preparing or otherwise intervening in the preparation of a document." A public officer is said to have taken advantage of his or her position if he or she has the duty to make or prepare or otherwise to intervene in the preparation of a document or if he or she has the official custody of the document which he or she falsifies.

The preparation and filing of a SALN is not a special duty of any particular office. It is not based on rank or salary grade. The preparation and filing of a SALN is required of all public officers and employees "except those who serve in an honorary capacity, laborers and casual or temporary workers." **Hence, when it comes to the preparation of SALNs, no office has an advantage over the other.**" (*Emphasis and underscoring ours; citation omitted*)

In that case, private respondent Germar was a security guard, whose official duties, according to the Supreme Court, required him to make or prepare security and attendance reports – documents over which he exercised control and could have given undue advantage to himself as afforded by his position. But as regards the SALN, he was only required to prepare the same by virtue of private respondent being a government employee and not due to his specific duties. Thus, his failure to disclose several real properties in his SALN did not amount to taking advantage of his official position as a security guard.

Another, in the case of *DOF-RIPS vs. OMB and Miriam R. Casayuran*,⁶⁰ the private respondent held the position of customs operations

⁵⁹ G.R. No. 238660, February 3, 2021

⁶⁰ G.R. No. 240137, September 9, 2020

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officer. Here, it was explained that her “position is irrelevant with respect to the requirement of filing a SALN because she must file it so long as she is a public officer” and that being “a Customs Operations Officer III does not give her any specific power or function when it comes to her SALN” as “she is similarly situated with every other public officer or employee.” Thus, the element of “taking advantage of official position” did not exist when Casayuran failed to declare a property in her SALN.

Remarkably, Casayuran held a similar position in the BOC as herein accused-appellant who served as Customs Operations Officer V. Applying the foregoing to the present case, accused-appellant was likewise required to prepare and submit a SALN only by reason of her being a public officer, and not as part of her official duties and functions. As a customs operations officer, she did not possess any specific or distinct power that she could take advantage of in the preparation of her SALN. Thus, her non-disclosure therein of the business interests of her spouse, whether deliberate or by negligence, is not tantamount to taking advantage of her official position.

The more recent case of *DOF-RIPS vs. OMB and Evelyn Rodriguez Ramirez*,⁶¹ further elucidated on the question of criminal liability under Art. 171(4) *vis-à-vis* allegation of falsification of SALN, and firmly established the principle that the crime contemplated in Art 171(4) cannot be committed on a SALN. The Supreme Court was very categorical on the matter, to wit:

To be liable for falsification under Article 171(4) of the Revised Penal Code, a public officer or employee must have taken advantage of his or her official position. This means that he or she **must have wielded particular power in connection with the preparation of a document closely related with his or her office and functions, so that no false declaration could be made without the unique opportunities and competencies facilitated by his or her office. Particular privity between one's office and the document allegedly falsified is essential.** A document such as **a SALN, which is prepared by public officers across the board, and is not connected with the unique competencies afforded by a specific public office, cannot be characterized as susceptible to the abuse contemplated by Article 171(4).**” (*Emphasis and underscoring ours; citations omitted*)

Thus, regardless of whether the prosecution managed to adduce evidence that tends to demonstrate how accused-appellant abused her position, or whether the appealed decision contained an exposition showing how being a customs operations officer afforded her the opportunity to falsify her SALN, which are essentially wanting in this case, the charge of

⁶¹ G.R. No 238510, July 14, 2021

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falsification under Art. 171(4) against accused-appellant Morala will ultimately fail.

Notably, the cases against herein accused-appellant were initiated through the complaint filed by the DOF-RIPS, the same petitioner in the three aforementioned Supreme Court decisions involving private respondents Germar, Casayuran, and Ramirez, who were also employees of the Bureau of Customs. While those cases were subjects of petitions questioning the Office of the Ombudsman’s findings of lack of probable cause to indict said respondents for falsification under Art. 171(4), the disquisitions made therein are equally applicable to the present case. This Court finds no reason to treat the principles laid down in those cases concerning the element of taking advantage of one’s official position, in relation to the allegation of falsification of SALN, as irrelevant or inappropriate to the present appeal that assails a finding of guilt for the same crime. After all, the element of taking advantage of one’s official position has been described as the “essential element of falsification of a public document by public officer,”⁶² and the determination of whether this element was present was crucial in the resolution of all these cases.

The absence of this fundamental element necessarily results in the dismissal of a criminal charge under Art. 171(4) of the RPC, or in the acquittal of an accused charged with the same. Especially when the basis of the charge is an allegation of falsification of SALN, the prosecution of such offense will be rendered futile as it appears that no particular office or position in the government enjoys a peculiar advantage that can be abused or can enable the officer or employee to commit the crime in such manner. This is clear from the exhaustive discussion made in the *Ramirez* case above, thus:

“However, not every instance of preparing a document in connection with public office should engender possible liability for falsification. To be able to take advantage, a public officer must wield particular power. One who is not uniquely situated, or is not imbued with specific competencies has nothing to abuse. Being similarly situated as other persons, there is nothing for him or her to leverage and draw advantage from. For instance, a false claim as to qualification can be made, in particular, by an officer involved in issuing permits and licenses; a false claim as to the existence and availability of certain items can specifically be made by a custodian; and a false claim as to quality and compliance can be made by reviewing personnel such as technical officers or auditors.

[x x x]

⁶² *Id.*, citing *Siquian v. People*, *supra* note 56

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A SALN is a document required of all public officers and employees, "except those who serve in an honorary capacity, laborers and casual or temporary workers." No particular office affords a peculiar capacity that enables an officer to be more capable than others in being forthright with one's wealth and economic interests. The honesty, cognition, and accuracy required in accomplishing a SALN cuts across all levels of government.

In this case, respondent Ramirez, a revenue officer, was no more capacitated and duty-bound than personnel junior to her, personnel elsewhere in government, the head of her agency, or, for that matter, the President of the Philippines. Her mistakes remain to be mistakes. However, it is misleading to think that those mistakes are borne precisely and uniquely by her being a revenue officer. She can be held to account for her non-declarations and mis-declarations through other avenues, but not through Article 171(4) for which the capacity to take advantage of one's office is essential.

If Ramirez was dishonest—as indeed she appears to have been dishonest—it is because she was dishonest, not because her office equipped her with extraordinary capacity to lie. Dishonest public officers and employees who veil their accumulation of ill-gotten wealth with such dishonesty should rightly be held to account. But this must be done with legal precision, employing proper means, and resorting to appropriate remedies. A proverbial shotgun approach—indiscriminate, overreaching, and precarious—cannot be sustained.”⁶³ (*Emphasis and underscoring ours; citations omitted*)

The Supreme Court cannot be more unequivocal on this point. A criminal charge of falsification by a public officer under Article 171(4) involving an allegation of falsity specifically committed on a SALN will not prosper for the plain reason that the element of taking advantage of one's official position will always be lacking. To stress, the SALN is not susceptible to the abuse contemplated under Article 171(4) of the RPC.

Consequently, since the concurrence of all the elements of falsification under Art. 171(4) was not sufficiently established, the trial court's conviction of the accused-appellant could not be sustained. There being no necessity to proceed further with the discussion of the rest of the elements and the arguments propounded by the parties, the same shall be dispensed with.

In parting, the Court echoes the closing statement of the *Ramirez* case in that herein accused-appellant Morala may have committed a mistake, or

⁶³ *Id.*

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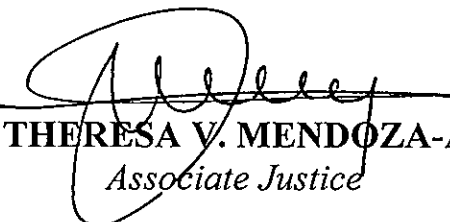
that she was truly dishonest, but such mistake or dishonesty was not uniquely and particularly afforded to her by her office or the position she occupied. She may be held to account for any wrongdoing that she might have committed, but in this instance, insofar as the liability under Article 171(4) is concerned, the constitutional presumption of innocence in her favor shall be upheld.

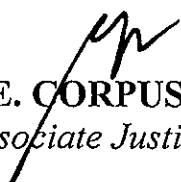
WHEREFORE, in light of the foregoing, the instant appeal is hereby **GRANTED**. The Decision dated January 19, 2022 of the Regional Trial Court of Manila, Branch 21, National Capital Judicial Region convicting the accused-appellant in Criminal Case No. 1800791 is **REVERSED** and **SET ASIDE**. Accused-appellant DELIA VILLAMIL MORALA is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

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


RAFAEL R. LAGOS
Associate Justice
Chairperson

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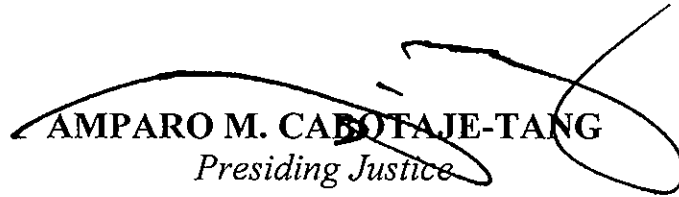
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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been 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

