

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Atty. ANNA MARIE D. CRESPILO
EXECUTIVE CLERK OF COURT III
SECOND DIVISION

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, CRIM. CASE NO. SB-11-CRM-
Plaintiff, 0120

- versus -

*For: Violation of Section 52(g) in
relation to Section 6(b) of Republic
Act No. 8291*

ANTONIO M. TALAUE, ET AL.,
Accused

Present:
HERRERA, Jr., J., Chairperson
MUSNGI, J., Associate Justice
PAHIMNA, J., Associate Justice

March 15, 2019
Promulgated

DECISION

MUSNGI, J.:

The accused Antonio M. Talaue ("Talaue"), Efren C. Guiyab ("Guiyab"), and Florante A. Galasinao ("Galasinao") were charged with violation of Section 52(g) in relation to Section 6(b) of Republic Act No. 8291 ("R.A. No. 8291"), otherwise known as the Government Service Insurance System Act of 1997. The *Information* reads as follows:

"That on or about 01 March 2006, or sometime prior or subsequent thereto, in Sto. Tomas, Isabela, Philippines, and within the jurisdiction of this Honorable Court, the accused, public officers, being then the Municipal Mayor, the Municipal Treasurer, and the Municipal Accountant, respectively, and as such has the legal obligation to timely remit to the Government Service Insurance System (GSIS) the GSIS premium contributions of the employees of the Municipal Government of Sto. Tomas, Isabela did there and then willfully, unlawfully, and criminally, fail to remit the said GSIS premiums, with an aggregate amount of Php22,436,546.10, for the period 01 January 1997 to 31 January 2004 within thirty (30) days from the date on which payment thereof has become due and demandable, to the damage and prejudice of the municipal employees.

CONTRARY TO LAW."



ANTECEDENT FACTS

Accused Talaue, Galasinao, and Guiyab were arraigned on 20 April 2015, 01 June 2015, and 21 September 2011, respectively. The *Pre-Trial Order*¹ was issued on 06 October 2017. The case proceeded to trial and the prosecution presented their documentary and testimonial evidence. On 19 April 2018, the Court dismissed the case against accused Guiyab pursuant to Article 89, Paragraph 1 of the Revised Penal Code upon his demise on 22 March 2018. After the prosecution rested their case, they submitted their *Formal Offer of Evidence*² on 30 April 2018.

The accused orally moved for leave of court to file demurrer to evidence but the same was denied by the Court. The accused then presented their evidence and completed the same on 16 July 2018. On even date, the accused formally offered their evidence in open court.³

On 25 October 2018, the case was submitted for decision.⁴

EVIDENCE FOR THE PROSECUTION

Araceli Santos

Araceli A. Santos ("**Santos**")⁵ is the Branch Manager of GSIS Cauayan Branch. In her *Judicial Affidavit* dated 02 November 2016, she stated that she started working with the GSIS in 1983 up to the present. Santos alleged that she received a subpoena from the Office of the Ombudsman requiring her to submit documents and to hold a conference with the handling prosecutor in relation to the criminal case against the accused public officers of the Municipality of Sto. Tomas pertaining to the non-remittance of the employees' mandatory premium contributions to the GSIS. She claimed that she immediately coordinated with their Billing and Collection Unit and requested for a copy of the Statement of Account of the Municipal Government of Sto. Tomas. She likewise prepared a Cover Letter with attached Notice on Past Due Compulsory Premiums dated 27 October 2016 (Exhibits "FFF" to "FFF-3") covering the period 01 January 1997 to 31 December 2005, and a file of collection letters/notices of default sent to the Municipality of Sto. Tomas (Exhibits "B", "K", "M", "GGG", and "HHH"). Based on the documents she prepared and a Memorandum of Agreement

¹ Sandiganbayan Records, Vol. 2, pp. 147-165.

² *Ibid.*, pp. 186-192.

³ *Ibid.*, p. 298.

⁴ *Ibid.*, p. 306.

⁵ Transcript of Stenographic Notes ("TSN") dated 22 February 2018.



between GSIS and the Municipal Government of Sto. Tomas dated 19 November 2008 (Exhibit "III"), Santos stated that the Municipal Government failed to remit the total amount of PhP22,436,546.10 inclusive of interests.

On cross-examination, Santos testified that the GSIS received remittance from the Municipality of Sto. Tomas after the execution of the Memorandum of Agreement ("MOA") with GSIS in 2000. She claimed that the last payment forwarded to the GSIS was in January 2016 but the remittance was not complete. Hence, they did not receive the remittance and asked that the same be completed first. Santos also stated that she does not know how many employees are covered by the said remittance.

With regard to the collection letters and notices (Exhibits "B", "K", "M", "GGG", and "HHH"), Santos testified that these are mere notices and not demand for payment.

Santos also testified that the head of the agency, the treasurer, and the accountant are the persons with legal obligation to remit the contributions to the GSIS because the head of the agency approves the disbursements, the treasurer has actual possession of the funds, and the accountant ensures that there are funds available. She also averred that the notices and demand letters are addressed to the Municipality, through the Mayor, who should be the one to explain the matter.

Documentary Evidence

On 06 June 2018, the Court resolved to admit all the prosecution's documentary evidence.

| EXHIBITS | DESCRIPTION |
|--------------|--|
| B to B-2 | Letter regarding Notice on Past Due Compulsory Premiums dated 01 March 2006 addressed to accused Talaue |
| K | Letter regarding Notice on Past Due Compulsory Premiums dated 02 August 2004 addressed to accused Talaue |
| M | Letter regarding Notice on Past Due Compulsory Premiums dated 14 February 2005 addressed to accused Talaue |
| FFF to FFF-3 | Cover Letter with attached letter purported to be a demand letter with subject Notice |

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|----------------------|--|
| | on Past Due Compulsory Premiums dated 27 October 2016 |
| GGG to GGG-2 | Demand letter dated 19 September 2003 from GSIS addressed to accused Talaue |
| HHH to HHH-3 | Second Notice on Past Due Compulsory Premiums dated 27 November 2003 |
| III to III-10 | Memorandum of Agreement as embodied in a Decision by the Regional Trial Court Branch 118, Pasay City dated 07 January 2009 |

EVIDENCE FOR THE DEFENSE

Florante A. Galasinao

Florante A. Galasinao ("**Accused Galasinao**")⁶ is currently the Acting Municipal Treasurer and the Municipal Accountant from 1993 to 2017 of the Municipal Government of Sto. Tomas, Isabela. In his *Judicial Affidavit* dated 18 June 2018, accused Galasinao stated that as Municipal Accountant, he was then tasked to check and endorse the necessary documentation relative to the expenses of the Municipality, which includes the employees' payroll and the corresponding disbursement voucher.

Accused Galasinao claimed that he was not mandated by law to remit the GSIS contributions of the municipal employees. His participation is allegedly limited to computing the necessary and compulsory deductions from an employee's monthly salary, and preparing the necessary disbursement vouchers, expenditure reports, and other related documents for the GSIS contributions and remittances. He claimed that his participation stops when he endorses the documents to the Municipal Treasurer for payment because it is the latter who has the duty to safekeep, allocate, disburse, and manage the Municipality's funds. In this case, the Municipal Treasurer was accused Guiyab who had already passed away while the case is pending.

Accused Galasinao also testified that he does not have proof that he had prepared and endorsed the documents relative to the GSIS contribution remittances for the period January 1997 to January 2004 because the same were lost and destroyed when Typhoon Jack struck Isabela sometime in October 2010.

⁶ TSN dated 21 June 2018.

Moreover, accused Galasinao alleged that a Decision by the Pasay City Regional Trial Court approving the MOA entered into by the GSIS and the Municipal Government was endorsed to him in order to reconcile the records of both parties. He also mentioned that based on Paragraph 5.1 of Article 5 of the MOA, the total or restructured obligation in the agreement assumed by the Municipal Government is now to be treated as a loan granted to the Municipality, and not unpaid contributions or remittances to the GSIS. Paragraph 6.4 of Article VI likewise provides that the MOA replaces and supersedes any understanding, communication and representation, whether verbal or written, between the parties.

Accused Galasinao stated that he then prepared the necessary documentation for these alleged expenses and forwarded the same to the Municipal Treasurer for payment while waiting for communication from the GSIS regarding the reconciliation of records and data. However, these documents were also destroyed by the typhoon.

On cross-examination, accused Galasinao admitted that the contributions of the employees to the GSIS which he deducted from their salaries were not actually remitted to the GSIS. However, he gave no answer when he was asked why the contributions were not remitted. He claimed that his duty ended when he forwarded the payroll to the Municipal Treasurer.

He also affirmed that he knows that the GSIS has the right to terminate the MOA with the Municipal Government of Sto. Tomas in the event of default on the part of the latter.

Antonio M. Talaue

Antonio M. Talaue ("**Accused Talaue**")⁷ is currently the Municipal Mayor of the Municipality of Sto. Tomas, Isabela. He previously served as Municipal Mayor from 1988 to 1998, and from 2001 to 2010.

In his *Judicial Affidavit* dated 27 June 2018, accused Talaue mentioned that with regard to the charge that he failed to remit the GSIS contributions of the municipal employees for the period of January 1997 to January 2004, he claimed that he was the Municipal Mayor only from January 1997 to June 1998 and June 2001 to January 2004.

Accused Talaue testified that he came to know of a decrease of Five Million Pesos (PhP5,000,000.00) from the Municipality's budget when they received it in 1997 from the Department of Budget and Management

⁷ TSN dated 02 July 2018.

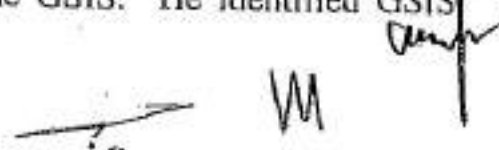
("DBM"). He claimed that the DBM used to withhold a certain portion of the Municipality's annual budget to be applied as payments to the necessary government agencies, including the GSIS. He alleged that he gave instructions that an inquiry be made with the DBM to clarify if the Five Million Pesos (PhP5,000,000.00) pertains to the amount regularly withheld by the DBM. The DBM allegedly informed them that there may have been errors in the computation and release of the Municipality's budget for 1997, and that it no longer withheld any amount in the previous years.

Accused Talaue averred that he gave further instructions to follow-up with the DBM to correct the irregularities in the Municipality's budget in order to allegedly comply with their obligations. Accused Talaue also claimed that he instructed the Municipal Treasurer, accused Guiyab, to make arrangements for the payment of the Municipality's regular remittances, including the GSIS, as the DBM no longer withholds and makes the remittances for them starting 1997. According to accused Talaue, the Municipal Treasurer told him that the Municipality is running short of funds due to other legitimate expenditures because it was the end of the year, and that they thought that the DBM was the one responsible for withholding and paying on the Municipality's behalf the necessary remittances to the GSIS.

Accused Talaue asserted that it is the Municipal Treasurer who is primarily responsible for the payment of the Municipality's obligations, including the GSIS contributions, because he is the Municipality's disbursing officer. He claimed that he reiterated his instructions to the Municipal Treasurer to make arrangements with the DBM. During this time, however, his term as Municipal Mayor ended.

When he was elected again in 2001, accused Talaue found out that the Municipal Treasurer has not made arrangements for the payment of the Municipality's obligations to the GSIS, including the period when accused Talaue stepped down from office. Hence, he instructed the Municipal Treasurer to make arrangements with the GSIS regarding the settlement of the obligations of the Municipality, and to reconcile their records with the GSIS. However, accused Talaue claimed that no formal arrangements were made and that the accounts remained unreconciled until January 2004.

Accused Talaue narrated that in 2006, the GSIS sued him, his co-accused, and the Municipality of Sto. Tomas for collection of sum of money before the Pasay City Regional Trial Court Branch 118 docketed as Civil Case No. 06-0407-CFM relative to the Municipality's obligations to the GSIS. While the case is pending, accused Talaue allegedly told the Municipal Treasurer to start paying the GSIS. He claimed that funds were allocated for that purpose and payments were made to the GSIS. He identified GSIS

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Official Receipt No. 0002237669 dated 28 August 2007 in the amount of One Million Pesos (PhP1,000,000.00) (Exhibit "1"), which was acknowledged by the GSIS under Official Receipt No. 30366 dated 11 October 2007 and Official Receipt No. 524548 in the amount of Eight Hundred Fifty Thousand Pesos (PhP850,000.00). He also mentioned that the parties eventually entered into a MOA and the court issued a Decision approving the same on 07 January 2009 (Exhibit "III"). The GSIS filed a Motion for Execution dated 06 October 2010 (Exhibit "F") and the Regional Trial Court issued a Writ of Execution through an Order dated 31 March 2011 (Exhibit "G").

Accused Talaue maintains that he is not criminally liable in this case. According to him, Paragraph 5.1 of Article 5 of the MOA provides that the total or restructured obligation of the Municipality to the GSIS is now to be treated as a loan, and not an unpaid obligation, which is to be paid on a scheduled basis and subject to the reconciliation of accounts and data. Moreover, Paragraph 6.4 of Article VI likewise provides that the MOA replaces and supersedes any understanding, communication and representation, whether verbal or written, between the parties. Hence, accused Talaue claimed that he cannot be liable for the crime charged since an outstanding loan cannot be a basis for any criminal liability.

On cross-examination, accused Talaue testified that he does not have any document to prove the alleged decrease in their budget in 2007 in the amount of Five Million Pesos (PhP5,000,000.00). He claimed that he only instructed the Municipal Treasurer to communicate with the DBM and the GSIS, and reconcile the amounts which the Municipality owe to the GSIS. Accused Talaue also provided no proof of the instructions he allegedly gave to the Municipal Treasurer. There was no written order of the same. With regard to the reconciliation of the records, he claimed that the instruction was made in writing but the same was destroyed by the typhoon.

Araceli Santos

Araceli A. Santos ("Santos")⁴ is the Branch Manager of GSIS Cauayan Branch, who was also a prosecution witness. She appeared before the Court in compliance with a subpoena directing her to bring duplicate copies and certified true copies of official receipts. She identified copies of Official Receipt No. 534548 (Exhibit "2") and Official Receipt No. 30366 (Exhibit "3"). She testified that the remitting agency is the municipal employees of Sto. Tomas, Isabela, and that the subject official receipts represent partial payments of the arrearages of the agency to the GSIS.

⁴ TSN dated 16 July 2018.



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On cross-examination, however, Santos confirmed that despite these official receipts presented by the defense, the Notice of Past Due Compulsory Premiums in 2016 which she signed provides that the Municipality of Sto. Tomas still owes the GSIS PhP22,436,546.10.

Documentary Evidence

On 16 July 2018, the Court resolved to admit the following exhibits of the defense:

| EXHIBITS | DESCRIPTION |
|----------|---|
| 1 | GSIS Official Receipt No. 0002237669 dated 28 August 2007 in the amount of PhP1,000,000.00 |
| 2 | GSIS Official Receipt No. 0000524548 dated 16 November 2009 in the amount of PhP850,000.00 |
| 3 | GSIS Official Receipt No. 0000030366 dated 11 October 2007 in the amount of PhP1,000,000.00 |

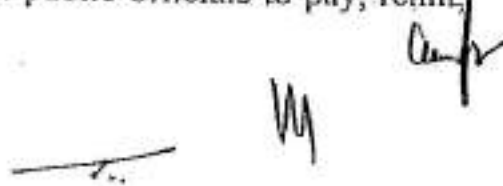
ISSUES

Whether or not the accused failed to remit the GSIS premium contributions of the employees of the Municipality of Sto. Tomas, Isabela with an aggregate amount of Php22,436,546.10 for the period 01 January 1997 to 31 January 2004 within thirty (30) days from the date on which payment thereof has become due and demandable.

THE FACTS AND THE CASE

The *Complaint-Affidavit* dated 26 July 2006 states that from January 1997 to January 2004, the accused failed and refused to remit the GSIS premium contributions of the employees of the Municipality of Sto. Tomas in the total amount of PhP22,436,546.10 as of February 2006, and that the same amount cannot be found in the coffers of the Municipal Government.

The *Complaint-Affidavit* dated 04 September 2005 also provides that repeated demands were made for the accused public officials to pay, remit



and deliver the contributions, but they still refused to do so, making them criminally liable for violation of Section 52(d) and (g) of the GSIS Act of 1997.

On 07 January 2009, a Decision was issued by the Pasay City Regional Trial Court Branch 118 which approved a MOA executed between the Municipality of Sto. Tomas and the GSIS with regard to the payment of the GSIS contributions. However, the Municipality of Sto. Tomas failed to comply with the terms of the MOA. The Pasay RTC eventually issued a Writ of Execution on 31 March 2011 for the immediate collection of PhP45,521,457.39 representing the total amount due from the Municipality of Sto. Tomas.

RULING

The accused were charged with violation of Section 52(g) in relation to Section 6(b) of R.A. No. 8291, otherwise known as the GSIS Act of 1997, to wit:

Section 6. Collection and Remittance of Contributions.

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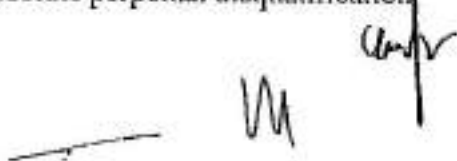
(b) Each employer shall remit directly to the GSIS the employees' and employers' contributions within the first ten (10) days of the calendar month following the month to which the contributions apply. The remittance by the employer of the contributions to the GSIS shall take priority over and above the payment of any all obligations, except salaries and wages of its employees.

xxx

Section 52. Penalty.

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(g) The heads of the offices of the national government, its political subdivisions, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and the personnel of such offices who are involved in the collection of premium contributions, loan amortization and other accounts due the GSIS who shall fail, refuse or delay the payment, turnover, remittance or delivery of such accounts to the GSIS within thirty (30) days from the time that the same shall have been due and demandable shall, upon conviction by final judgment, suffer the penalties of imprisonment of not less than one (1) year nor more than five (5) years and a fine of not less than Ten thousand pesos (P10,000.00) nor more than Twenty thousand pesos (P20,000.00), and in addition shall suffer absolute perpetual disqualification



from holding public office and from practicing any profession or calling licensed by the government.

It is undisputable that the GSIS premium contributions of the municipal employees were not remitted by the Municipality of Sto. Tomas within thirty (30) days from the date on which payment has become due and demandable. As early as 2006, the GSIS sued the Municipality of Sto. Tomas and the accused public officials for collection of sum of money. A MOA dated 07 January 2009 was signed by the Municipality of Sto. Tomas, through accused Talaue, and the GSIS primarily to settle the outstanding premium arrearages of the GSIS members. During this time, the outstanding obligation amounted to PhP16,428,529.00 with an accrued interest of PhP18,031,801.83. Article 1.1 of the MOA provides that the Municipality of Sto. Tomas "hereby agrees and confirms that the account payable to the GSIS for premium contributions and other collections, inclusive of interests and other charges" amounts to PhP25,444,429.92.

Accused Talaue, in his testimony, also admitted that the Municipality of Sto. Tomas has an outstanding obligation to the GSIS. He also basically blamed accused Municipal Treasurer Guiyab in failing to remit the contributions. The pertinent portions of his *Judicial Affidavit* dated 27 June 2018 are as follows:

14. Q: What else did you do, if any?

A: I likewise instructed our municipal treasurer to make arrangements for the payment of our municipality's regular remittances, including the GSIS, as the DBM no longer withholds and makes the remittances for us starting 1997.

15. Q: What did the municipal treasurer do about this instruction?

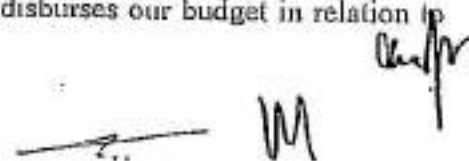
A: He told me that by that time, the municipality is running short of funds due to other legitimate expenditures, considering that it was towards the end of the year, and that we all thought that the DBM was responsible for withholding and paying on our behalf the necessary remittances to GSIS.

16. Q: What else did he tell you, if any?

A: He also told me that the decrease in our budget made a huge impact on the municipality's financial capability to sustain all our outstanding obligations.

17. Q: What does the municipal treasurer got to do with this matter?

A: The municipal treasurer is the municipality's disbursing officer. He safe keeps, allocates, manages and disburses our budget in relation to

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our municipality's expenses. Thus, he is primarily responsible for the payment of our municipality's obligations, including the GSIS contributions.

18. Q: What did you do after the municipal treasurer informed you about these matters?

A: I reiterated my instructions to make arrangements with the DBM relative to our municipality's decreased budget. I had to resort to this to try to augment our budget and pay the necessary obligations. By this time, however, my tenure was almost over.

19. Q: What happened next?

A: My term as mayor then ended, and I had to step down. The matter was still unresolved by the municipal treasurer that time.

20. Q: You said a while ago that you were the municipal mayor from 2001 to 2010. When you came back to office in 2001, what was the status of the municipality's GSIS contributions?

A: I came to know that the municipal treasurer has not made arrangements for the payment of our obligations to GSIS, including the period where I left off when I stepped down from office.

21. Q: What did you do upon knowing this?

A: I gave instructions to the municipal treasurer to make arrangements with GSIS regarding the settlement of whatever obligations the municipality may have.

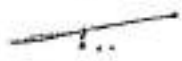
22. Q: What else did you do, if any?

A: I also instructed the municipal treasurer to make a reconciliation of accounts with the GSIS, as due to the lapse of time, our obligations may have ballooned to an amount which we may find difficulty settling in one transaction. In addition, I required him to make sure that he reconciles our municipality's data with that of the GSIS, as there may have been severed and/or newly-hired employees in the municipality.

23. Q: Why did you give these instructions to reconcile the municipality's accounts and data with GSIS?

A: I gave such instructions to make sure that the payables and data with the GSIS are accurate, and for the municipal treasurer to clearly assess how to pay the municipality's obligations.

24. Q: What happened after you gave your instructions to the municipal treasurer?



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A: Despite my instructions to the municipal treasurer, no formal arrangements have been arrived at between our municipality and GSIS. The accounts and data likewise remained unreconciled until January 2004.

Accused Talaue cannot simply evade his obligation to remit the GSIS contributions and blame the same on the Municipal Treasurer. Moreover, these are mere allegations without any substantial proof. Section 444 of the Local Government Code provides that the Municipal Mayor is the chief executive of the Municipal Government who shall exercise such powers and performs duties as provided in the Code and other laws. As the Municipal Mayor, he is the head of the Municipal Government. Section 52 (g) of R.A. No. 8291 clearly provides that the heads of agencies or branches of government shall be criminally liable for the failure, refusal, or delay in the payment, turnover, and remittance or delivery of such accounts to the GSIS.

Accused Talaue also argues that he cannot be criminally liable because the MOA already converted the outstanding obligation into a loan, hence, the same cannot be a basis for any criminal liability.

He is incorrect.

The act violating Section 52(g) of R.A. No. 8291 has already been committed. The Supreme Court held in *Matalam vs. People of the Philippines*⁹ that the act of non-remittance of the GSIS premiums is criminally punishable. It is an act *malum prohibitum*. R.A. 8291 punishes the failure, refusal, or delay without lawful or justifiable cause in remitting or paying the required contributions.¹⁰ The Supreme Court described a *malum prohibitum* act as follows:

When an act is *malum prohibitum*, "[i]t is the commission of that act as defined by the law, and not the character or effect thereof, that determines whether or not the provision has been violated."

In *ABS-CBN Corp. v. Gozon*,¹¹ we discussed the difference between acts *mala prohibita* and *mala in se*:

The general rule is that acts punished under a special law are *malum prohibitum*. " An act which is declared *malum prohibitum*, malice or criminal intent is completely immaterial."

In contrast, crimes *mala in se* concern inherently immoral acts:

⁹ G.R. Nos. 221849-50, 04 April 2016.

¹⁰ *Ibid.*

Not every criminal act, however, involves moral turpitude. It is for this reason that "as to what crime involves moral turpitude, is for the Supreme Court to determine." (Emphasis added)

He also cannot feign ignorance of this obligation considering that he was the Municipal Mayor during the time relevant to this case and that he was informed through the various notices sent by the GSIS with regard to the Municipality's outstanding obligations. The prosecution presented a Notice on Past Due Compulsory Premiums dated 01 March 2006 (Exhibit "B") addressed to accused Talaue which states that the Municipality of Sto. Tomas has not paid the arrearages for compulsory premiums of its municipal employees in the total amount of PhP22,436,546.10 covering the period January 1997 to January 2004. There were also other Notices on Past Due Compulsory Premiums dated 27 November 2003 (Exhibit "HHH"), 02 August 2004 (Exhibit "K"), 14 February 2005 (Exhibit "M"), and 27 October 2016 (Exhibit "FFF-1") in the amount of PhP12,618,417.17, PhP14,730,952.78, PhP16,538,143.24, PhP22,436,546.10, respectively. The prosecution also presented a letter dated 19 September 2003 (Exhibit "GGG") from the GSIS addressed to accused Talaue informing the latter of the unpaid contributions and that the same has to be settled immediately.

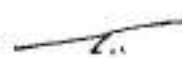
Accused Talaue, in his defense, presented three (3) Official Receipts dated 28 August 2007 in the amount of 07 January 2009 (Exhibit "1"), 11 October 2007 in the amount of PhP1,000,000.0 (Exhibit "3"), and 16 November 2009 in the amount of PhP850,000.00 (Exhibit "2"). It appears that at the time that a Decision was promulgated by the Pasay City RTC on 07 January 2009 approving the MOA, the Municipality of Sto. Tomas only paid PhP850,000.00. Prosecution and defense witness Araceli Santos also testified that despite the Official Receipts presented by the accused, the Municipality of Sto. Tomas still owes the GSIS PhP22,436,546.10.

The Supreme Court in *Matalam vs. People of the Philippines*¹¹ explained the importance of promptly remitting the GSIS contributions, to wit:

The GSIS was created for the purpose of providing social security and insurance benefits as well as promoting efficiency and the welfare of government employees. To this end, the state has adopted a policy of maintaining and preserving the actuarial solvency of GSIS funds at all times. The fund comes from both member and employer contributions. Hence, non-remittance of the contributions threatens the actuarial solvency of the fund.¹²

¹¹ G.R. Nos. 221849-50, 04 April 2016.

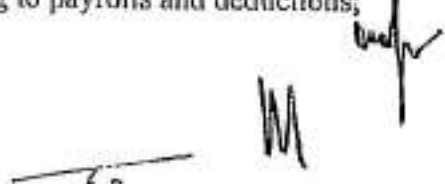
¹² *Id.*



Evidently, accused Talaue failed to discharge his duties and functions as provided by the Local Government Code and R.A. No. 8291. Despite knowing that premium contributions to the GSIS remained unremitted since 1997, he failed to act upon it. Aside from making these alleged instructions to the Municipal Treasurer to make arrangements with the GSIS, accused Talaue has done nothing. The mere act of failing to remit the GSIS contributions is criminally punishable.

On the other hand, accused Galasinao, the Municipal Accountant, was also charged with the same offense of failing to remit the GSIS contributions. He claimed that he was not mandated by law to remit the GSIS contributions of the municipal employees. He also alleged that his participation is limited to computing the deductions from the employees' monthly salary, preparing the disbursement vouchers, and other related documents for the GSIS contributions and remittances. The functions of a Municipal Accountant is enumerated in Section 473 of the Local Government Code as follows:

- (b) The accountant shall take charge of both the accounting and internal audit services of the local government unit concerned and shall:
 - (1) Install and maintain an internal audit system in the local government unit concerned;
 - (2) Prepare and submit financial statements to the governor or mayor, as the case may be, and to the sanggunian concerned;
 - (3) Appraise the sanggunian and other local government officials on the financial condition and operations of the local government unit concerned;
 - (4) Certify to the availability of budgetary allotment to which expenditures and obligations may be properly charged;
 - (5) Review supporting documents before preparation of vouchers to determine completeness of requirements;
 - (6) Prepare statements of cash advances, liquidation, salaries, allowances, reimbursements and remittances pertaining to the local government unit;
 - (7) Prepare statements of journal vouchers and liquidation of the same and other adjustments related thereto;
 - (8) Post individual disbursements to the subsidiary ledger and index cards;
 - (9) Maintain individual ledgers for officials and employees of the local government unit pertaining to payrolls and deductions;



- (10) Record and post in index cards details of purchased furniture, fixtures, and equipment, including disposal thereof, if any;
- (11) Account for all issued requests for obligations and maintain and keep all records and reports related thereto;
- (12) Prepare journals and the analysis of obligations and maintain and keep all records and reports related thereto; and
- (13) Exercise such other powers and perform such other duties and functions as may be provided by law or ordinance.

The abovementioned functions of a Municipal Accountant under the Local Government Code do not specifically include the collection and remittance of GSIS contributions, hence, accused Galasinao cannot be liable for failure to remit the GSIS contributions. Moreover, he was not charged in the *Information* to have conspired or confederated with accused Talaue and there was no evidence presented for that purpose. Hence, accused Galasinao must be acquitted of the offense charged.

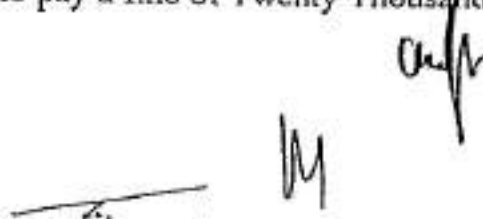
The Supreme Court, in *Matalam vs. People of the Philippines*,¹³ emphasized the doctrine that public office is a public trust, hence:

In *Rios v. Sandiganbayan*, this Court underscored the constitutional principle that "public office is a public trust":

This Court would like to stress adherence to the doctrine that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. Public servants must bear in mind this constitutional mandate at all times to guide them in their actions during their entire tenure in the government service. "The good of the service and the degree of morality which every official and employee in the public service must observe, if respect and confidence are to be maintained by the Government in the enforcement of the law, demand that no untoward conduct on his part, affecting morality, integrity and efficiency while holding office should be left without proper and commensurate sanction, all attendant circumstances taken into account."

WHEREFORE, premises considered, the Court finds accused Antonio M. Talaue **GUILTY** beyond reasonable doubt of violation of Section 52(g) in relation to Section 6(b) of Republic Act No. 8291. He is hereby sentenced to suffer an indeterminate penalty of imprisonment ranging from three (3) years as minimum to five (5) years as maximum, and to pay a fine of Twenty Thousand

¹³ G.R. Nos. 221849-50, 04 April 2016.




X-----X


Pesos (PhP20,000.00). He shall further suffer the penalty of absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the Government.

Accused Florante A. Galasinao, on the other hand, is hereby **ACQUITTED** on reasonable doubt. The property or cash bonds posted by accused Galasinao for his provisional liberty is ordered returned, subject to the usual accounting and auditing procedures. The Hold Departure Order issued against him is ordered **LIFTED**.

SO ORDERED.


MICHAEL FREDERICK L. MUSNGI
Associate Justice

WE CONCUR:


OSCAR C. HERRERA, JR.
Associate Justice
Chairperson


LORIFEL I. PAHIMNA
Associate Justice

ATTESTATION

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


OSCAR C. HERRERA, JR.
Chairperson, Second Division

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CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice

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