



Republic of the Philippines

SANDIGANBAYAN

Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

EFRAIM GENUINO y CRUZ,
Accused.

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CRIM CASE NO:
SB-16-CRM-0496 to 0499
For: Perjury

Present:

CABOTAJE-TANG, A.M., P.J.
Chairperson
FERNANDEZ, B. R., J. and
MORENO, R. B., J.

Promulgated:

MAY 10, 2019

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D E C I S I O N

FERNANDEZ B., J.

Accused Efraim Genuino y Cruz stands charged for perjury as defined and punished under Article 183 of the Revised Penal Code, as amended, the accusatory portions of the four (4) Informations are as follows - -

Criminal Case SB-16-CRM-0496

That on 11 March 2003 or sometime prior or subsequent thereto, in the City of San Juan, Philippines and within the jurisdiction of this

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Honorable Court, accused EFRAIM C. GENUINO, then a public officer, being the Chairman and Chief Executive Corporate Officer of the Philippine Amusement and Gaming Corporation, and thus required by law to file his sworn Statement of Assets, Liabilities and Net Worth (SALN), did then and there, wilfully, unlawfully, feloniously and knowingly accomplished a SALN for a year ending 31 December 2002 and deliberately affirmed under oath the falsehood contained therein pertaining to his undervalued assets by failing to disclose, despite full knowledge thereof, the following real properties registered under his name and his wife:

Location	Year Acquired	TCT No.	Area (in sq.m)	Acquisition Cost
Bangkal, Makati City	1986	141526	72	70,000.00
Bangkal, Makati City	1986	141527	15	
Bangkal, Makati City	1986	142411	72	86,000.00
Bangkal, Makati City	1988	154452	72	70,000.00
Tunasan, Muntinlupa City	1992	182883	644	300,000.00
Dita, Sta. Rosa, Laguna	2000	458725	206	879,000.00

CONTRARY TO LAW.

Criminal Case SB 16-CRM-0497

That on 15 April 2004 or sometime prior or subsequent thereto, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, accused EFRAIM C. GENUINO, then a public officer, being the Chairman and Chief Executive Corporate Officer of the Philippine Amusement and Gaming Corporation, and thus required by law to file his sworn Statement of Assets, Liabilities and Net Worth (SALN), did then and there, wilfully, unlawfully, feloniously and knowingly accomplished a SALN for a year ending 31 December 2003 and deliberately affirmed under oath the falsehood contained therein pertaining to his undervalued assets by failing to disclose, despite full knowledge thereof, the following real properties registered under his name and his wife:

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Location	Year Acquired	TCT No.	Area (in sq.m)	Acquisition Cost
Bangkal, Makati City	1986	141526	72	70,000.00
Bangkal, Makati City	1986	141527	15	
Bangkal, Makati City	1986	142411	72	86,000.00
Bangkal, Makati City	1988	154452	72	70,000.00
Tunasan, Muntinlupa City	1992	182883	644	300,000.00
Dita, Sta. Rosa, Laguna	2000	458725	206	879,000.00

CONTRARY TO LAW.

Criminal Case SB-16-CRM-0498

That on 15 April 2005 or sometime prior or subsequent thereto, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, accused EFRAIM C. GENUINO, then a public officer, being the Chairman and Chief Executive Corporate Officer of the Philippine Amusement and Gaming Corporation, and thus required by law to file his sworn Statement of Assets, Liabilities and Net Worth (SALN), did then and there, wilfully, unlawfully, feloniously and knowingly accomplished a SALN for a year ending 31 December 2004 and deliberately affirmed under oath the falsehood contained therein pertaining to his undervalued assets by failing to disclose, despite full knowledge thereof, the following real properties registered under his name and his wife:

Location	Year Acquired	TCT No.	Area (in sq.m)	Acquisition Cost
Bangkal, Makati City	1986	141526	72	70,000.00
Bangkal, Makati City	1986	141527	15	
Bangkal, Makati City	1986	142411	72	86,000.00
Bangkal, Makati City	1988	154452	72	70,000.00
Tunasan, Muntinlupa City	1992	182883	644	300,000.00
Dita, Sta. Rosa, Laguna	2000	458725	206	879,000.00

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CONTRARY TO LAW.

Criminal Case SB-16-CRM-0499

That on 30 March 2006 or sometime prior or subsequent thereto, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, accused EFRAIM C. GENUINO, then a public officer, being the Chairman and Chief Executive Corporate Officer of the Philippine Amusement and Gaming Corporation, and thus required by law to file his sworn Statement of Assets, Liabilities and Net Worth (SALN), did then and there, wilfully, unlawfully, feloniously and knowingly accomplished a SALN for a year ending 31 December 2005 and deliberately affirmed under oath the falsehood contained therein pertaining to his undervalued assets by failing to disclose, despite full knowledge thereof, the following real properties registered under his name and his wife:

Location	Year Acquired	TCT No.	Area (in sq.m)	Acquisition Cost
Bangkal, Makati City	1986	141526	72	70,000.00
Bangkal, Makati City	1986	141527	15	
Bangkal, Makati City	1986	142411	72	86,000.00
Bangkal, Makati City	1988	154452	72	70,000.00
Tunasan, Muntinlupa City	1992	182883	644	300,000.00
Dita, Sta. Rosa, Laguna	2000	458725	206	879,000.00

CONTRARY TO LAW.

When arraigned, accused Genuino, assisted by counsel, pleaded not guilty to all the charges (Order, September 22, 2017).

Pre-trial ensued with the parties agreeing to stipulate on the following (Pre-Trial Order, January 26, 2018) - - (1) The identity of the accused as the same person charged in the Informations in Criminal Cases Nos SB-16-CRM-0496-0499 entitled "People of the Philippines vs. Efraim C. Genuino" for perjury; (2) The jurisdiction of the Court over the person of the accused; (3) Upon recommendation of the President of the

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Philippines, accused Genuino was the Chief Executive Officer (CEO) of the Philippine Amusement and Gaming Corporation (PAGCOR) from 2001 to 2010; (4) At the time material to these cases, accused Genuino held the position of Chairman and CEO of PAGCOR; (5) Accused and his wife own the follow real properties which were all acquired prior to the year 2001:

TCT No.	Year Acquired	Area (in sq.m)	Acquisition Cost	Registry of Deeds
141526	1986	72	70,000.00	Makati City
141527	1986	15	70,000.00	Makati City
142411	1986	72	86,000.00	Makati City
154452	1988	72	70,000.00	Makati City
182883	1992	644	300,000.00	Muntinlupa City
369444	1996	333	200,000.00	Laguna
458725	2000	206	879,000.00	Laguna

Thereafter, trial commenced.

The first witness for the prosecution was **Visitacion Flores Mendoza**, the then Senior Managing Head, Human Resources Department (HRD), PAGCOR. Testifying through her sworn Judicial Affidavit, witness Mendoza stated that it was her Office that forwarded certified true copies of the subject Statements of Assets, Liabilities and Net Worth (SALNs) of accused Genuino covering the years 2002, 2003, 2004, 2005, in compliance with the subpoena issued by the Office of the Ombudsman (Ombudsman). She likewise identified the 2001 SALN submitted by accused Genuino.

When cross-examined, witness Mendoza admitted that she was unaware of Republic Act No. 6713, requiring that the SALNs of national executive officials should be filed with the Office of the President as well as Section 5 of Civil Service Resolution No. 060231, providing that national executive officials and heads of government corporations, with original charters, should file their SALNs with the Office of the President. She also admitted that she does not have in her possession the originals of the subject SALNs she identified.

On re-direct examination, witness Mendoza explained that their Office pulled out the available copies from their records, certified them and submitted the same to the Ombudsman, in compliance with latter's subpoena. She also clarified that these copies are from the originals that accused Genuino submitted to the HRD as they are normally prepared

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in numerous copies. After the SALNs are notarized, one copy is retained with the HRD which is consider the copy original.

James G. Viernes, the Director, Preliminary Investigation, Administrative Adjudication and Review Bureau, Office of the Ombudsman, was called next to testify through his sworn Judicial Affidavit. He testified that he personally caused the issuance of the subpoena *duces tecum* dated May 4, 2005 to Visitacion F. Mendoza with the request to submit, among others, the 2004 SALN of accused Genuino. He likewise identified the letter-reply dated May 11, 2005 (Exh. "I") of Visitacion F. Mendoza and its attachments, namely: the Personal Data Sheet; Appointment Paper; Oath of Office; Certificate of Yearly Compensation, Salaries and Allowances received for the year 2004; and, the 2004 SALN of accused Genuino.

When cross-examined, witness Viernes admitted not sending a subpoena to the Office of the President asking for the SALNs of accused Genuino and that he was unaware that the depository of the SALNs of PAGCOR officials was the Office of the President.

On re-direct examination, witness Viernes knew that the HRD of PAGCOR was also an official repository of the SALNs of PAGCOR officer and employee as provided for in the last paragraph C, Rule 7 of the Implementing Rules and Regulation of RA 6713. On re-cross examination, he, however, admitted that only the certified true copies of the SALNs of accused Genuino were submitted to their Office.

Thereafter, **Riza D. de Leon**, the former Asst. Managing Head, Human Resource Department, PAGCOR, was called. She testified, through her sworn Judicial Affidavit, that her duties include assisting the HRD Managing Head in the different sub-functions of the HRD, *i.e.* recruitment, compensation benefits, performance, evaluation, promotion, personnel movement, personnel records. She added that she was instructed by Visitacion Mendoza, the HRD Sr. Managing Head, to produce and transmit the documents requested by the Ombudsman, in compliance with the latter's letter. She thus photocopied and certified as true copies from the originals on file the SALNs of accused Genuino for the years 2001 (Exh. "E"); 2002 (Exh. "F"); and, 2003 (Exh. "G"), as requested. She also identified the said SALNs; her sworn



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Judicial Affidavit; and, the PAGCOR Compliance Letter dated June 1, 2004 (Exh "D").

On cross-examination, witness de Leon admitted that when she executed her Judicial Affidavit, she no longer had official custody of the documents attached thereto and that in the copies of the SALNs of accused Genuino which she identified, the table therein containing the real properties of accused Genuino did not contain his (accused Genuino) signature nor did she see accused Genuino fill up the SALNs for the years 2002 and 2003 or appear before Atty. Consolacion, the administering officer. On re-direct examination, witness de Leon further clarified that she was certain that the signatures on the SALNs were the signatures of accused Genuino because she was familiar with the same.

Jesus Gutierrez Salvador, the Administrative Officer V, Central Records Division, Ombudsman, in charge of the active and archived files in the custody of the Central Records Division, was next to testify. He substantially corroborated the testimonies of the other prosecution witnesses and identified the following documents on file in their Division, namely: (1) Letter dated June 1, 2004 addressed to Evelyn Baliton, Director, BRO Head CPU/JGU Task Force, Office of the Ombudsman from Ms. Visitacion F. Mendoza of PAGCOR (Exh "D"); the 2001 SALN of accused Genuino with the PAGCOR letterhead (Exh "E"); 2002 SALN of accused Genuino with the PAGCOR letterhead (Exh "F"); the 2003 SALN of accused Genuino with the PAGCOR letterhead (Exh "G"); the Subpoena *duces tecum* dated May 4, 2005 (Exh "H"); a letter with PAGCOR letterhead dated May 11, 2005 addressed to Atty. James Viernes from Visitacion Mendoza of PAGCOR (Exh "I"); the 2004 SALN of accused Genuino with the PAGCOR letterhead (Exh "J"); the 2006 SALN of accused Genuino with the PAGCOR letterhead (Exh "K"); and, the 2005 SALN of accused Genuino with the PAGCOR letterhead (Exh "L" and series).

Witness Salvador further clarified that only copies submitted to their Division for recording and safekeeping were on file. The originals or certified true copies of these documents were retained by the concerned bureau who conducted the preliminary investigation or fact-finding of the case. He added that he photocopied the documents and certified them as "Certified Photocopy from Record on File".



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On cross-examination, witness Salvador admitted that the documents he retrieved were photocopies and retained by his Division. He no longer bothered to secure or request for the originals or certified true copies of the documents. It was the Office of the Special Prosecutor who showed him the original folder containing the originals or certified true copies of the following: Reply letter (Exh. "D"); a letter with PAGCOR letterhead dated May 11, 2005 addressed to Atty. James Viernes from Visitacion Mendoza of PAGCOR (Exh. "I") and the 2006 SALN of accused Genuino with the PAGCOR letterhead (Exh. "K") as original copies; the 2001 SALN of accused Genuino with the PAGCOR letter head (Exh. "E") and the 2003 SALN of accused Genuino with the PAGCOR letterhead (Exh. "G") as certified true copy from the PAGCOR; and, the Subpoena *duces tecum* dated May 4, 2005 (Exh. "H"), the 2004 SALN of accused Genuino with the PAGCOR letterhead (Exh. "J") and the 2005 SALN of accused Genuino with the PAGCOR letterhead (Exh. "L") as not originals.

When queried by the Court, witness Salvador added that the documents on file in the Central Records Division were neither originals nor certified and that the first time he saw the originals or certified copies of the foregoing described Exhs. "D" to "L" was when he was shown the same by the Office of the Special Prosecutor.

Then, **Ryan P. Medrano**, the Graft Investigation and Prosecution Officer III, Ombudsman, was called to the witness stand. He testified that he prepared the Complaint (Exh. "A" to "A-7") against accused Genuino for and in behalf of the Field Investigation Office (FIO), Ombudsman, as the nominal complainant in these cases. He, likewise, corroborated the testimonies of the other witnesses particularly as to the gathering of documentary evidence against accused Genuino. He further identified the Complaint dated March 5, 2012 (Exhs. "A" to "A-7"); the Ombudsman's Resolution dated April 15, 2015 (Exhs. "C" to C-10"); the PAGCOR's transmittal letter dated July 1, 2004 duly signed by Visitacion Mendoza (Exh. "D"); the certified true copy of the 2001 SALN of accused Genuino (Exhs. "E" to "E-5"); the certified true copy of the 2002 SALN of accused Genuino (Exhs. "F" to "F-3"); the certified true copy of the 2003 SALN of accused Genuino (Exhs. "G" to "G-4"); the Subpoena *duces tecum* issued by James Viernes of the Office of the Ombudsman addressed to Visitacion Mendoza (Exh. "H"); the PAGCOR's transmittal



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letter dated May 11, 2005 duly signed by Visitacion Mendoza addressed to Atty James Viernes (Exh. "I"); the certified true copy of the 2004 SALN of accused Genuino (Exhs. "J" to "J-4"); PAGCOR's transmittal letter dated December 6, 2006 duly signed by Visitacion Mendoza (Exh. "K"); and, the certified true copy of the 2005 SALN of accused Genuino (Exhs. "L" to "L-4").

Upon a cross-examination, witness Medrano admitted that, although the case was only assigned to them in 2011, a fact-finding investigation was already conducted as early as 2004 while the Informations were filed in 2016. He also admitted that when they received the certified true copies of the requested documents from PAGCOR, he did not ask for the purported originals of the subject SALNs from PAGCOR and that he never saw the originals of the subject SALNs. Although he was aware of the provisions of Section 8 of R. A. No. 6713 and the Civil Service Commission Resolution No. 06023, requiring all national executive officials to file their SALNs with the Office of the President, he did not request for certified true copies of the SALNs of accused Genuino from the Office of the President. Witness Medrano also admitted that he did not verify with the Office of the President as to whether accused Genuino indeed filed his SALNs with the said Office even after reading the Counter-Affidavit of accused Genuino alleging the filing.

On re-direct examination, witness Medrano clarified that their Office considered the certified true copies of the subject SALNs coming from the PAGCOR due to the provisions of the Implementing Rules and Regulations of Republic Act 6713, to wit: A copy of said statements should also be filed with their respective departments, offices or agencies. This was the main reason why the Ombudsman subpoenaed the Managing Head of the Human Resources Department of PAGCOR.

The last witness for the prosecution was **Atty. Roderick Consolacion**, the then Asst. Managing Head of Corporate and Legal Services Department, PAGCOR, and the one who notarized the SALNs of accused Genuino for the years 2001 (Exh. "E"); 2002 (Exh. "F"); 2003 (Exh. "G"); and, 2004 (Exh. "J"). He also identified the certified true copies of the said SALNs as well as a copy of the 2005 SALN (Exh. "L") submitted to the Ombudsman. Witness Atty. Consolacion also identified



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the signature of Atty. Carlos Bautista, as the one who notarized the 2005 SALN of accused Genuino.

On cross-examination, witness Atty. Consolacion admitted that the documents presented to him for identification were photocopies and that he could not compare these photocopies with the originals because PAGCOR did not have the latter. He also agreed that under Section 8 of R. A. No. 6713, national executives, like accused Genuino who was then PAGCOR Chairman, should file their SALNs with the Office of the President and that under Section 5 of Civil Service Commission Resolution No. 060231, heads of government-owned and controlled corporation with original charters must also submit their SALNs with the Office of the President. Witness Atty. Genuino further testified that he would rely on the copies of the SALNs coming from the Office of the President instead of the copies presented to him by the prosecution as this was the dictates of the law.

On re-direct examination, witness Atty. Consolacion, after comparison, confirmed that the certified true copy of the 2001 SALN (Exh. "E") of accused Genuino filed with the Office of the President are not the same with the SALN submitted to the Ombudsman.

When queried by the Court, witness Atty. Consolacion testified that, although he and Atty. Bautista were the only two (2) administering officers for the SALNs of PAGCOR officers and employees, Atty. Bautista usually lets him (witness Consolacion) notarized all the SALNs.

Upon the Formal Offer of Evidence dated April 3, 2018 of the prosecution and with the Comment dated April 18, 2018 of the defense, this Court ruled to admit prosecution's Exhibits "A" to "A-7"; "C" to "C-10"; "D"; "E" to "E-5"; "F" to "F-3"; "G" to "G-4"; "H" and series; "I" and series; "J" to "J-4"; "K" and series; "L" to "L-4"; "M" to "M-3"; "N" to "N-2"; "O" to "O-3"; "P" to "P-3"; "Q" to "Q-2"; "R" to "R-3"; and, "S" to "S-1" (Order, April 23, 2018).

Although accused Genuino filed a Motion dated May 11, 2018, seeking leave to file a demurrer to the evidence, this Court, after the prosecution filed its Comment/Opposition dated May 21, 2018, denied the same (Order, May 25, 2018). A Motion for Reconsideration dated June 15, 2018 was



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subsequently filed by accused Genuino, through counsel, but the same was likewise, denied (Order, July 31, 2018).

The first witness for the defense was **Elenita Gatbonton**, assigned at the Malacañang Records Office. She produced from the records of the Office of the President the SALNs of accused Genuino particularly, the 2001 SALN (Exh. "10"); the 2002 SALN (Exh. "2"); the 2003 SALN (Exh. "3"); the 2004 SALN (Exh. "4"); and, the 2005 SALN (Exh. "5"). She also identified the signature of her Director, Atty Concepcion Perolino Enan.

Witness Gatbonton also produced a folder containing the SALNs of accused Genuino for the years 2001 to 2009. She added that, as a procedure in their Office, she was the one who prepared, photocopied and stamped certified the documents she brought to court.

She further identified a subpoena from the Ombudsman (Exh. "15") requiring her Office to produce the originals of the SALNs of accused Genuino. In compliance, witness Gatbonton prepared certified copies of the requested SALNs (Exhs. "2"; "3"; "4"; "5"; "10"; and "11"), presented the originals and submitted certified copies of the same to Prosecutor Harry Caldino.

Witness Gatbonton also testified that her Office received the SALNs of accused Genuino for the years 2002, 2003 and 2004 (Exhs. "2-C"; "3-C"; and, "4-C", respectively) as transmitted by the Sr. Managing Head, HRD, PAGCOR, Visitacion Mendoza while the SALNs of accused Genuino as of February 5, 2001 and December 31, 2001 (Exhs. "10-C" and "11-C", respectively) were transmitted by Teresita S. Ela, Managing Head, Personnel Administration Department, PAGCOR.

When cross-examined, witness Gatbonton admitted that she had no knowledge whether the same Managing Head of PAGCOR submitted the SALNs to the Ombudsman.

Atty. Roderick R. Consolacion, a prosecution witness, was recalled to the witness stand to testify for the defense. He testified that he knew accused Genuino as the Chairman of PAGCOR from 2001 to 2010. He was then the administering officer assigned to administer the oath on the SALNs of the



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accused Genuino, as PAGCOR Chairman, from his assumption to office until 2010.

He likewise identified the SALNs of accused Genuino where he (witness Atty. Consolacion) administered the oath, particularly, the SALN as of February 5, 2001 (Exhs. "10" to "10-B"); the SALN ending December 31, 2001 (Exhs. "11" to "11-B"); the SALN ending December 31, 2002 (Exhs. "2" to "2-B"); the SALN ending December 31, 2003 (Exh. "3"); the SALN as of December 31, 2004 (Exhs. "4" to "4-B"); and, the SALN as of December 31, 2005 (previously marked as Exhs. "5" to "5-B").

Witness Atty. Consolacion added that, after the term of accused Genuino as Chairman and CEO of PAGCOR, he (witness Atty. Consolacion) received three (3) letters from the counsel of accused Genuino respectively dated August 23, 2016, October 3, 2016 and October 4, 2016, addressed to PAGCOR, requesting PAGCOR to furnish the said counsel with the subject SALNs of accused Genuino. In response, witness Atty. Consolacion replied that the official repository of the SALNs requested is the Office of the President, as prescribed in Civil Service Commission Memorandum Circular No. 10, series of 2016, and not with PAGCOR. He further identified certified true copies of the two (2) letters dated August 31, 2016 (Exh. "16") and October 18, 2016 (Exh. "7"), both signed by him.

On cross-examination, witness Atty. Consolacion was confronted with the SALNs which he identified in open Court for the prosecution *vis-à-vis* the SALNs which he identified for the defense. After comparison, witness Atty. Consolacion testified that the documents were not the same, particularly as to the font used and for some spelling discrepancies.

Thereafter, the prosecution and defense agreed to stipulate that the attached list of real properties submitted to the Office of the President and the Ombudsman for the year 2001 are the same. However, the list of real properties for the years 2002, 2003, 2004 and 2005 are different.

When queried by the Court, witness Atty. Consolacion admitted that, even though he notarized the SALNs of accused Genuino, they were neither entered in his Notarial Book considering that there are 11,000 employees in

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PAGCOR nor did the documents notarized submitted to the Notarial Section of the City of Manila. He further testified that, after he notarized the SALNs, these were forwarded to the HRD of PAGCOR, whose office was responsible for forwarding them to the Office of the President. However, witness Atty. Consolacion admitted that he had no personal knowledge if indeed the same SALNs which he was shown were actually forwarded by the HRD PAGCOR to the Office of the President. Being aware of the procedure, witness Atty. Consolacion even went to the Office of the President to verify if the subject SALNs were sent by their HRD.

Witness Atty. Consolacion further testified that the HRD of PAGCOR does not retain copies of the SALNs because when he received the first letter request from the counsel of accused Genuino, he (witness Atty. Consolacion) inquired with the HRD of PAGCOR and they replied that their Office does not have the requested documents.

The last witness for the defense was accused **Efraim Cruz Genuino** himself. He maintains that the charges against him were without basis. Confirming his position with PAGCOR as Chairman of the Board and CEO, he admits holding these positions from February 2001 to June 2010. He added that his staff prepares his SALNs for him with the clear and express instruction that they strictly comply with the requirements of the law. He then proceeds to subscribe and sign his SALNs before the designated administering officers of PAGCOR, specifically Atty. Roderick Consolacion and Atty. Carlos Bautista. However, in 2006, it was Atty. Gerhard Patrick Noblejas who administered the oath on the 2006 SALN of accused Genuino.

Accused Genuino filed, as required, his SALNs with the Office of the President, the official custodian thereof. He then identified his SALN as of February 5, 2001 (Exh. "10"); his SALN as of December 31, 2001 (Exh. "11"); his SALN as of December 31, 2002 (Exh. "2"); his SALN as of December 31, 2003 (Exh. "3"); his SALN as of December 31, 2004 (Exh. "4"); his SALN as of December 31, 2005 (Exh. "5"); and, his SALN as of December 31, 2006 (Exh. "17"). He further identified the third page of his 2001 SALN as the list of real properties as an attachment (Exhs. "11-b"; "E-5"). After comparing the two (2) documents, accused Genuino confirmed that there was no



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difference between the two as the real properties reported in both documents were the same.

Relative to Crim. Case No. SB-16-CRM-0496, accused Genuino testified that he did declare the properties in Bangkal, Makati; Tunasan, Muntinlupa; and Sta. Rosa. He emphasized that he declared these properties in his 2001 SALN, hence, there was no reason for him not to declare them in his 2002 to 2005 SALNs and then declare the same real properties anew in his 2006 SALN. Accused Genuino added that the allegations in Crim. Case No. SB-16-CRM-0497 to SB-16-CRM-0499 are false because in his 2003 to 2005 SALNs, including the years 2001 to 2006, the real properties in Bangkal, Makati; Tunasan, Muntinlupa; Sta Rosa; and, Los Baños, Laguna were declared. He insists that he reported all these properties when he first filed his SALN in 2001. There was thus no reason for him not to declare them in his 2002 to 2005 SALNs and then declare them anew in 2006.

On cross-examination, accused Genuino testified that he could not recall who among his staff prepared his SALNs as he had several staff members during that time. He however, admitted that it was Atty. Consolacion who notarized his 2001 to 2004 SALNs. Accused Genuino also stated that he submitted his SALNs directly with the Office of the President, being the official repository of SALNs of officials appointed by the President, without passing to the HRD of PAGCOR.

Accused Genuino further testified that he knew Visitacion Mendoza but could not recall if she was a PAGCOR employee. He likewise could not recall knowing Riza de Leon. He maintains, however, that they had nothing to do with his SALNs because his SALNs were directly submitted to the Office of the President. He also stated that he was unaware if copies of his SALNs should also be filed with other departments, offices or agencies and if his SALNs were submitted by HRD of PAGCOR to the Ombudsman.

Thereafter, the defense filed its Formal Offer of Evidence dated October 1, 2018. With the Comments/Opposition of the prosecution dated October 25, 2018, this Court ruled to admit defense Exhibits "2" to "2-b"; "2-a-1"; "2-a-2"; "2-c"; "3" to "3-b"; "3-a-2"; "3-c"; "3-d"; "4" to "4-b"; "4-a-1"; "4-a-2"; "4-c"; "5" to "5-b"; "5-a-1"; "7"; "7-a"; "10" to "10-b"; "10-a-1";



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"10-a-2"; "10-c"; "10-d"; "11" to "11-b"; "11-a"; "11-a-2"; "11-c"; "11-d"; "12"; "12-a"; "13" to "13-a"; "14"; "14-a"; "15"; "15-a"; "16"; "16-a"; "17" to "17-b"; "17-a-1"; and, "17-a-2" (Minutes, October 31, 2018).

After the parties were given time (Order, December 13, 2018), the prosecution filed its Memorandum dated February 1, 2019 while the defense filed its own Memorandum dated January 24, 2019.

In its Memorandum dated February 1, 2019, the prosecution argues that all the elements of perjury are present and that its witnesses, Riza de Leon and Visitacion Mendoza, testified that they transmitted certified true copies of the SALNs of accused Genuino covering the years 2001 to 2005, thus attesting to the fact that accused Genuino indeed made a statement under oath or executed an affidavit on a material matter. On the second element, the prosecution posits that the statement or affidavit was made before a competent officer, as evidenced by its witness, Atty. Roderick Consolacion, who testified that, being the then Asst. Managing Head, Legal Services Division (CLSD), PAGCOR, he administered the oath on the SALNs of accused Genuino and that Atty. Carlos Bautista also administered the oath on accused Genuino for the latter's 2005 SALN. As regards the third element, the prosecution theorizes that the failure by accused Genuino to disclose the complete list of real properties in his 2002 to 2005 SALNs was deliberate and intentional. This claim was supported by the 2001 SALN because the list of real properties attached thereto was different from the list submitted for the 2002 to 2005 SALNs. Lastly, the prosecution argues that the sworn statement or affidavit containing the falsity is required by law for a legal purpose as mandated by Sec. 7 of R. A. No. 3019 in relation to Sec. 8 of R. A. No. 6713.

For his part, accused Genuino, in his Memorandum dated January 24, 2019, maintains that the prosecution failed to present the originals of the subject SALNs of accused Genuino. The prosecution only submitted "certified true copies" to the Ombudsman and that its witness, Atty. Consolacion, testified that the repository of the SALNs is with the Office of the President, not the PAGCOR. Accused Genuino further argues that the "certified true copies" of the subject SALNs, according to the prosecution witnesses



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particularly Atty. Consolacion, were sourced from PAGCOR and were not properly authenticated because PAGCOR does not have the originals thereof in its files. Additionally, the copies of the subject SALNs presented by the prosecution are unreliable and of questionable integrity since the originals thereof were neither seen nor compared by the Ombudsman's investigators.

Accused Genuino further argues that the subject SALNs actually executed by him were filed with the Office of the President as the official custodian thereof. As proof thereof, he presented Elenita Gatbunton, who brought the originals and the certified true copies of the subject SALNs of accused Genuino retrieved from the records of the Office of the President. Lastly, accused Genuino insists that there is no evidence showing that accused Genuino acted with criminal intent, much less acted willfully and deliberately in asserting any falsehood by not declaring certain real properties.

We now rule.

Perjury is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter (Villanueva vs. Secretary of Justice, G.R. No. 162187, November 18, 2005, 475 SCRA 495).

It is committed by any person who, knowingly makes untruthful statements and not being included in the provisions of the next preceding Articles, shall testify under oath, or make an affidavit, upon a material matter before a competent person, authorized to administer an oath in cases in which the law so requires (Article 183, Revised Penal Code, as amended; People vs. Cruz, G.R. No. L-27978, February 25, 1982, 112 SCRA 129).

To hold one liable for perjury, the following elements must concur - - (1) The accused made a statement under oath or executed an affidavit upon a material matter; (2) The statement or affidavit was made before a competent officer, authorized to receive and administer oath; (3) In the statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and, (4) The sworn statement or affidavit containing the falsity is required by law or made for a legal purpose (Villanueva vs. Secretary of Justice, *supra.*; People vs. Masangkay, G.R. No. 164443, June

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18, 2010, 621 SCRA 231; Union Bank vs. People, G.R. No. 192565, February 28, 2012; Ilusorio vs. Bildner, G.R. No. 173935-38, December 23, 2008; Monfort vs. Salvatierra, G.R. No. 168301, March 5, 2007).

Undoubtedly, accused Genuino executed and filed his SALNs for the years 2001 to 2006. There is, likewise, no doubt that these SALNs were presented before a competent officer authorized to receive and administer oaths – in this case, before Atty. Roderick Consolacion for the SALNs of 2002 to 2004 and before Atty. Carlos Bautista for the 2005 SALN.

Clearly, the crux of the charges filed against accused Genuino pertains to alleged inconsistencies found in his list of real properties attached to his 2002 to 2005 SALNs as opposed to a list attached to his 2001 and 2006 SALNs. There appears also to be two (2) sets of the subject SALNs – one set found in the records of the PAGCOR while the other set found with the Records Division of the Office of the President.

The subject SALNs for the years 2002 to 2005 with the PAGCOR failed to mention in its attached list certain real properties. On the other hand, these certain real properties were mentioned as an attachment to the set of SALNs on record with the Office of the President. No explanation was, however, given for the different SALNs and their apparent inconsistencies.

Although the prosecution relied on the records from PAGCOR, accused Genuino insists that it was his staff who prepared his SALNs and knows that they were submitted to the Office of the President. He also asserts that he complied with the provisions of law and rules in filing his SALNs with the Office of the President.

The remaining element is the third element – *In the statement or affidavit, the accused made a willful and deliberate assertion of a falsehood*. Our Supreme Court has consistently focused on this element as the pivotal element.

Perjury, being a felony by *dolo*, there must be malice on the part of the accused. Willfully means intentionally, with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intent that it should be received as a statement of what was true in fact. It



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is equivalent to "knowingly". "Deliberately" implies meditated as distinguished from inadvertent acts. It must appear that the accused knows his statement to be false or as consciously ignorant of its truth (*Monfort vs. Salvatierra, ibid.*).

Hence, good faith or lack of malice is a valid defense. (*Acuña vs. Deputy Ombudsman for Luzon, G.R. No. 144692, January 31, 2005; Monfort vs. Salvatierra, ibid.*).

From the testimonies of the witnesses and the evidence submitted, it cannot be said that accused Genuino deliberately and willfully failed to completely list down all his real properties in the subject SALNs (years 2002 to 2005) found in the records of the PAGCOR. A close perusal of the SALNs filed for the years 2001 and 2006 reveal the complete list of real properties of accused Genuino. It defies reason for accused Genuino to submit a complete list of his real properties in 2001 and not include them in the subject SALNs, only to list them again in 2006.

Although accused Genuino may be blamed for allowing his staff to prepare and submit his SALNs, his negligence or inadvertence to check and supervise his staff does not *ipso facto* give rise to *dolo* or malice on his part. Precisely because the nature of the crime of perjury is a felony by *dolo*, hence, there cannot be a crime of perjury by negligence or imprudence.

Additionally, it must be emphasized that perjury is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter. Thus, a mere assertion of a false objective fact or a falsehood is not enough. The assertion must be deliberate and willful (*Yu vs. Lim, G.R. No. 182291, September 22, 2010*).

This Court cannot find any evidence to show that the assertions were deliberate and willful.

Finally, it has been consistently underscored that in our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt. Where there is no moral certainty as to their guilt, they must be acquitted even though their innocence may be questionable. The constitutional right to be presumed



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innocent until proven guilty can be overthrown only by proof beyond reasonable doubt (People v. Asis, G.R. No. 142531, October 15, 2002).

WHEREFORE, judgment is hereby rendered **ACQUITTING** accused **EFRAIM GENUINO y CRUZ** on **ALL CHARGES** for failure of the prosecution to prove his guilt beyond reasonable doubt.

Accordingly, the Hold Departure Orders issued by this Court against accused Genuino are hereby **RECALLED** and **SET ASIDE** and his bail bonds **RELEASED** subject to the usual auditing and accounting procedures.

SO ORDERED.

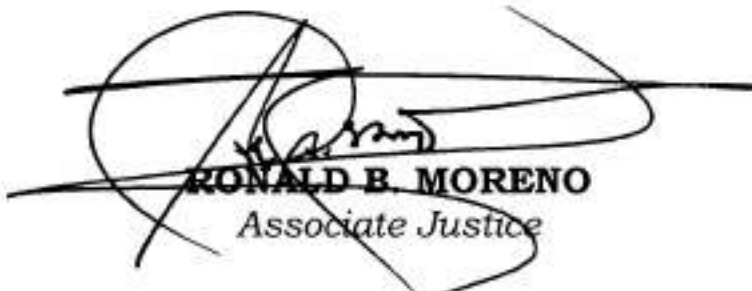


BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



RONALD B. MORENO
Associate Justice

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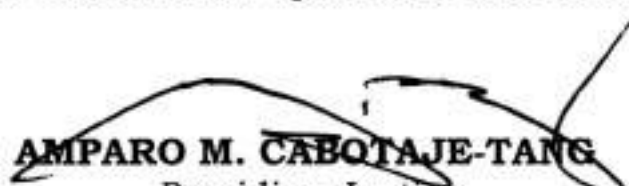
ATTESTATION:

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.


AMPARO M. CABOTAJE-TANG
Chairperson, Third Division
Presiding Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.


AMPARO M. CABOTAJE-TANG
Presiding Justice

