

Summary of the Constitutional Court Ruling No. 31/2546

Dated 16th September B.E. 2546 (2003)*

Re : The National Counter Corruption Commission requests for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), in the case where Mr. Rakkiert Suktana intentionally submitted false accounts showing particulars of assets and liabilities and supporting documents or concealed facts which should have been disclosed.

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1. Background and summarized facts

The National Counter Corruption Commission (NCCC), the applicant, submitted an application to the Constitutional Court requesting for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), in the case where Mr. Rakkiert Suktana intentionally submitted false accounts showing particulars of assets and liabilities and supporting documents or concealed facts which should have been disclosed. Eight submissions had been made by the respondent in the case of taking office as member of the House of Representatives, taking office and leaving office as Minister of the Prime Minister's Office, taking office as Minister of Public Health, leaving office as Minister of Public Health, the expiration of one year after leaving office as Minister of the Prime Minister's Office, the expiration of one year after leaving office as Minister of Public Health, leaving office as member of the House of Representatives and the expiration of one year after leaving office as member of the House of Representatives. False accounts were submitted or essential facts had been concealed on the three following occasions:

On the first occasion, the respondent failed to disclose assets (a bank deposit) belonging to himself and/or his spouse which were under the name of others.

On the second occasion, the respondent concealed assets (35 parcels of land) belonging to himself by effecting a disguised legal transaction which transferred possession rights to others.

On the third occasion, the respondent falsely declared debts in the amount of 22,000,000 baht.

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2. Preliminary issue

The preliminary issue considered was whether or not the application could be accepted for consideration under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court held that the case was in accordance with section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The application was therefore accepted for consideration.

3. The issue considered by the Constitutional Court

The issue considered by the Constitutional Court was whether or not the respondent intentionally submitted false accounts of assets and liabilities and supporting documents or concealed facts which should have been disclosed under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court held the following opinion.

On the first occasion of failure to disclose assets (a bank deposit) belonging to the respondent and/or his spouse which were under the names of others, the respondent did not disclose his bank deposits in several bank accounts comprising of two accounts under the name of Mr. Pisnukorn Udornsatit and two accounts under the name of Mr. Jirayu Jarasstean and did not disclose bank accounts belonging to Mrs. Surakanya Suktana, the respondent's spouse, comprising of two accounts under the name of Mr. Pisnukorn Udornsatit and four deposit certificates under the name of Acting Sub-Lieutenant Patcharaporn Bunyong and Mrs. Suntree Wirojwechapan. The respondent was during that time aware of the existence of those assets belonging to himself and his spouse.

The Constitutional Court held unanimously that the respondent intentionally concealed assets which were bank deposits belonging to himself and his spouse that were under the names of others.

On the second occasion of concealment of assets (35 parcels of land) by effecting a disguised legal transaction which transferred possession rights to others, the respondent was the owner of 35 parcels of land as evidenced by Nor Sor 3 Kor title documents. The respondent had included such lands in accounts submitted to the applicant on five occasions. Subsequently, the respondent claimed that the lands were transferred to Mr. Kiti Chartbanchakarn in June B.E. 2542 (1999) in repayment of debts owed to the latter. An examination of the evidence in the registry revealed a transfer to Mr. Kiti Chartbanchakarn. Thus, it followed that the respondent's exclusion of such lands from the accounts submitted on the sixth to eighth occasions were consistent with the registered evidence and constituted disclosures of existing assets in the submission of accounts under section 292 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court held by a majority vote that the respondent did not intentionally conceal the assets of 35 parcels of land by effecting disguised legal transactions which transfer possession rights to others.

On the third occasion of false declaration of debts in the amount of 22,000,000 baht, the Constitutional Court held by a majority vote that once it was held that the respondent intentionally concealed assets which were bank accounts belonging to the respondent and his spouse under the name of other persons, which was an intentional submission of false accounts or a concealment of facts that should have been disclosed under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), and a ruling in respect of this third occasion would not alter such ruling, it was unnecessary to rule on this false debt declaration.

The Constitutional Court therefore held unanimously that the respondent intentionally submitted false accounts of assets and liabilities and supporting documents or concealed facts which should have been disclosed under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). An issue which required a further ruling of the Constitutional Court was the commencement date of the five year prohibition from holding any political position.

The Constitutional Court held by a majority vote as follows. The respondent had left political office prior to the Constitutional Court ruling that the respondent intentionally submitted false accounts of assets and liabilities and supporting documents or concealed facts which should have been disclosed. The cause of action in the application in this case arose from the respondent's continual intentional submission of false accounts of assets and liabilities or concealment of facts which should have been disclosed from the first submission in the case of taking office as member of the House of Representatives thru the eighth submission in the case of the expiration of one year after leaving office as member of the House of Representatives. Therefore, as the respondent left the office of member of the House of Representatives, which was the first position held in the applicant's cause of action, on 6th September B.E. 2543 (2000), the respondent was prohibited from holding any political position for a period of five years commencing on 6th September B.E. 2543 (2000).

4. Ruling of the Constitutional Court

By virtue of the reasons above, the Constitutional Court held that Mr. Rakkiert Suktana, the respondent, intentionally submitted false accounts showing particulars of assets and liabilities and supporting documents or concealed facts which should have been disclosed under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The respondent was prohibited from holding a political position for a period of five years commencing on 6th September B.E. 2543 (2000), which was the date when the respondent left office as member of the House of Representatives.
