

Summary of the Constitutional Court Ruling No. 37/2545

Dated 18th June B.E. 2545 (2002) *

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. Sompong Kasetphibal intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents as prescribed by the Constitution and intentionally submitted accounts showing particulars of assets and liabilities and supporting documents which contained false statements or concealed facts which should have been disclosed.

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1. Background and summarized facts

The National Counter Corruption Commission (NCCC) submitted an application under section 295 of the Constitution. The application stated that Mr. Sompong Kasetphibal was a political official under the Rules of Political Officials Act, B.E. 2535 (1992) appointed to the position of secretary to the Minister of the Prime Minister's Office (Mr. Piyanat Watcharaporn) in the government of General Chavalit Yongchaiyut, the Prime Minister pursuant to Order of the Prime Minister's Office No. 142/2540 Re: Appointment of Political Official, dated 25th April B.E. 2540 (1997). Mr. Sompong Kasetphibal was therefore a political official under section 291 paragraph one subparagraph (5) of the Constitution who was under a duty to submit accounts showing particulars of assets and liabilities of himself, his spouse and his children who had not yet become sui juris to the NCCC within the time limit prescribed by section 292 of the Constitution

The NCCC had examined the accounts of assets and liabilities in the case of taking office, the case of vacation of office and the case of the expiration of one year after the vacation of office and discovered that such submission of accounts of assets and liabilities had not yet been duly made under section 291 paragraph two of the Constitution. The matter was referred to the Constitutional Court for a ruling under section 295 of the Constitution that Mr. Sompong Kasetphibal had intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents as prescribed by the Constitution and intentionally submitted accounts of assets and liabilities and supporting

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documents which contained false statements or concealed facts which should have been disclosed. The Constitutional Court offered an opportunity for the respondent to submit a statement in defence of the allegation in a letter which was sent by registered post. The respondent received the letter from the Constitutional Court but did not submit any statement to the Constitutional Court.

2. Preliminary issue.

The Constitutional Court held that the case was in accordance with section 295 of the Constitution and therefore accepted the case for consideration.

3. The issues considered by the Constitutional Court

The first issue considered was whether or not the respondent intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents as prescribed in the Constitution.

The second issue considered was whether or not the respondent intentionally submitted accounts showing particulars of assets and liabilities and supporting documents which contained false statements or concealed facts which should have been disclosed.

On the first issue, the Constitutional Court held that the submission of accounts showing particulars of assets and liabilities by the respondent had not yet been duly done under section 291 paragraph two of the Constitution for the following reasons:

(1) A copy of the house registry was not enclosed as evidence of the existence of a residence.

(2) Copies of income tax assessments for himself and his spouse were not enclosed for the year B.E. 2539 (1996) (in the case of taking office and vacation of office) and for the year B.E. 2540 (1997) (in the case of the expiration of one year after the vacation of office).

(3) No signature was affixed to certify the correctness of the copies of evidence submitted in support of the accounts.

Moreover, the Constitutional Court had given the respondent an opportunity to make a statement in defence of the allegations but the respondent failed to submit any statement to the Constitutional Court. The circumstances of the respondent indicated that the respondent intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents to the NCCC, the applicant, as prescribed by the Constitution.

On the second issue, the Constitutional Court held that the assets and liabilities shown in the respondent's accounts of assets and liabilities, in the case of taking office, vacation of office and expiration of one year after the vacation of office, were inaccurate accounts of the

facts. Such examples were found in bank deposits, land, motor vehicles, other real estate and debts. Such facts indicated that the respondent intentionally submitted accounts showing particulars of assets and liabilities and supporting documents which contained false statements or concealed facts which should have been disclosed.

4. Ruling of the Constitutional Court

The Constitutional Court considered and held by a majority of votes that Mr. Sompong Kasetphibal (the respondent) committed an offence under section 295 of the Constitution by intentionally failing to submit accounts showing particulars of assets and liabilities and supporting documents as prescribed by the Constitution and also intentionally submitting accounts showing particulars of assets and liabilities and supporting documents which contained false statements or concealed facts which should have been disclosed.
