

Summary of Constitutional Court Ruling No. 13/2550

Dated 26th September B.E. 2550 (2007)*

Re: The National Counter Corruption Commission requested for a Constitutional Tribunal ruling in the case of Mr. Santi Rungserichai's intentional failure to submit an account of assets and liabilities and supporting documents.

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1. Summary of background and facts

The National Counter Corruption Commission (NCCC) submitted an application in request of a Constitutional Tribunal ruling under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30th September B.E. 2549 (2006) and section 35 of the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006), that Mr. Santi Rungserichai intentionally failed to submit an account of assets and liabilities and supporting documents on the occasion of the expiration of one year after leaving office.

The facts could be summarized as follows. Mr. Santi Rungserichai, the respondent, held a political position as member of Ratchaburi Municipal Assembly. He was elected on 17th May B.E. 2541 (1998) and vacated office at the expiration of term on 16th May B.E. 2545 (2002). In the B.E. 2542 (1999) budget year, Ratchaburi Municipality collected a total of 317,296,893.20 baht in revenues. In this regard, section 4(9), section 32 and section 33 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with the Notification of the National Counter Corruption Commission Re: Prescription of Revenue Criteria for Local Administrative Organizations for the Determination of Local Administrators and Assembly Members of Local Administrative Organizations as Political Position Holders, dated 30th December B.E. 2542 (1999), provided a duty for the respondent to file accounts of assets and liabilities and supporting documents to the NCCC, the applicant, on every occasion of taking office, leaving office and the expiration of one year after leaving office. It appeared that the respondent made filings on two occasions, the occasion of taking office on 29th February B.E. 2543 (2000) and the occasion of leaving office on 16th May B.E. 2545 (2002). However, a submission of account to the respondent was not made on the occasion of the expiration of one year after leaving office. The respondent gave a statement to the Office of the NCCC that he was not aware of the duty to submit an account

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on the occasion of the expiration of one year after leaving office. Upon acknowledging the duty to submit an account after receiving a warning letter from the applicant, the submission of account was delayed for certain reasons. Thereafter together with an explanation, the respondent submitted an account and supporting documents, but the submission was incomplete.

In meeting no. 33/2550, held on 3rd May B.E. 2550 (2007), the applicant held unanimously by 9 votes that the respondent intentionally failed to submit an account of assets and liabilities and supporting documents on the occasion of the expiration of one year after leaving office and the matter was submitted to the Constitutional Tribunal for consideration.

In the proceedings of the Constitutional Tribunal, the respondent submitted a statement in reply to the allegations to the Constitutional Tribunal for consideration. The reply statement could be summarized as stating that the respondent admitted to the allegations made by the applicant, and even though the respondent raised defences, the respondent neither denied the allegations made by the applicant nor claimed different facts.

During the trial of this application, the Constitution of the Kingdom of Thailand B.E. 2550 (2007) was promulgated, wherein section 300 provided for the Constitutional Tribunal under the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006) to become the Constitutional Court.

2. Issue considered by the Constitutional Court

The issue considered by the Constitutional Court was whether or not the respondent intentionally failed to submit an account of assets and liabilities and supporting documents on the occasion of the expiration of one year after leaving office under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30th September B.E. 2549 (2006).

The Constitutional Court, after consideration, held as follows. The respondent held the position of member of the Ratchaburi Municipal Assembly as of 17th May B.E. 2541 (1998) and vacated office at the expiration of term on 16th May B.E. 2545 (2002). The respondent was therefore a political position holder under section 4(9), section 32 and section 33 of the Organic Act on Counter Corruption B.E. 2542 (1999), who was under a duty to submit an account of assets and liabilities and supporting documents on the occasion of taking office, leaving office and the expiration of one year after leaving office. It was found on the facts that on the occasions of taking office and leaving office, the respondent had satisfactorily submitted accounts to the applicant. As for the occasion of the expiration of one year after leaving office, the respondent did not submit an account, and during trial proceedings in the Constitutional Court, it was found according to the respondent's reply statement that the respondent admitted to the submissions made by the applicant.

The Constitutional Court therefore held that the respondent was aware of his duty to submit an account of assets and liabilities and supporting documents as already notified by a competent official of the Office of the National Counter Corruption Commission or an official of the Ratchaburi Municipality, but the respondent intentionally failed to submit such account of assets and liabilities and supporting documents.

3. Ruling of the Constitutional Court

The Constitutional Court unanimously held by 7 votes that the respondent intentionally failed to submit an account of assets and liabilities and supporting documents under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) and clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30th September B.E. 2549 (2006) in conjunction with section 300 paragraph one, paragraph three and paragraph four of the Constitution of the Kingdom of Thailand B.E. 2550 (2007).
