

# Summary of Constitutional Court Ruling No. 14/2550

**Dated 26<sup>th</sup> September B.E. 2550 (2007)\***

**Re: The National Counter Corruption Commission requested for a Constitutional Tribunal Ruling in the case of Mr. Somboon Nuchapan'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 facts in the application could be summarized as follows. Mr. Somboon Nuchapan, the respondent, held a political position as member of Petchaburi Provincial Administrative Organization Assembly. He was elected on 5<sup>th</sup> February B.E. 2543 (2000) and vacated office at the expiration of term on 4<sup>th</sup> February B.E. 2547 (2004). In the B.E. 2543 (2000) budget year, Petchaburi Provincial Administrative Organization collected a total of 104,443,216.20 baht in revenues. Thus, under 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 30<sup>th</sup> December B.E. 2542 (1999), the respondent was under a duty to submit accounts of assets and liabilities and supporting documents to the National Counter Corruption Commission (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 submitted an account on one occasion when he took office, such submission made on 8<sup>th</sup> November B.E. 2543 (2000). However, no further submissions were made to the applicant on the occasions of leaving office and the expiration of one year after leaving office. In the proceedings where a statement was given to the Office of the National Counter Corruption Commission, the respondent claimed that he had forgot to make the submissions and mistakenly believed that he had already made the submissions. Also, the respondent stated that his assets consisted of only 1 house and there was only one outstanding debt obligation with the Bank for Agriculture and Agricultural Cooperatives. The respondent was well aware that the failure to submit an account would result in legal penalties.

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\* Published in the Government Gazette Vol. 125, Part 19a, 23<sup>rd</sup> January B.E. 2551 (2008).

In meeting no. 31/2550, held on 19<sup>th</sup> April B.E. 2550 (2007), the applicant passed a unanimous resolution by 7 votes that the respondent intentionally failed to submit an account of assets and liabilities and supporting documents on the occasions of leaving office and 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 respondent's reply statement could be summarized as stating that the respondent admitted to the allegations made by the applicant and did not wish to state any additional facts.

## **2. Issue considered by the Constitutional Court**

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. This case was therefore transferred to the powers and duties of the Constitutional Court.

The subsequent issue which had to be decided 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 occasions of leaving office and 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 30<sup>th</sup> September B.E. 2549 (2006).

After consideration, it was held as follows. The respondent held a political position as member of the Petchaburi Provincial Administrative Organization Assembly from 5<sup>th</sup> February B.E. 2543 (2000) and vacated the position at the expiration of term on 4<sup>th</sup> February B.E. 2547 (2004). 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 accounts of assets and liabilities and supporting documents on the occasions of taking office, leaving office and the expiration of one year after leaving office. It was found on the facts that on the occasion of taking office, the respondent had already made a due submission of account. However, on the occasions of leaving office and the expiration of one year after leaving office, the respondent did not submit accounts. During the proceedings in the Constitutional Court, the respondent admitted to the applicant's allegations. Thus, it was found that the respondent was aware of his duty to submit accounts as notified by the competent official of the National Counter Corruption Commission or official of the Provincial Administrative Organization, but the respondent still did not submit the accounts within the period prescribed by law. It was therefore deemed that the respondent intentionally failed to submit an account of assets and liabilities and supporting documents as stated in the application.

### **3. Ruling of the Constitutional Court**

The Constitutional Court held unanimously 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) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30<sup>th</sup> September B.E. 2549 (2006).

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