



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**DEPARTMENT OF FINANCE –  
REVENUE INTEGRITY  
PROTECTION SERVICE,**  
Petitioner,

**G.R. No. 238660**

Present:

PERALTA, *CJ.*, Chairperson,  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, *JJ.*

- versus -

**OFFICE OF THE OMBUDSMAN  
and CLEMENTE DEL ROSARIO  
GERMAR,**  
Respondents.

Promulgated:

**FEB 03 2021**

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**DECISION**

**ZALAMEDA, J.:**

This involves a Petition for Certiorari assailing the Resolution dated 15 June 2017 and the Order dated 08 November 2017 of the Office of the Ombudsman in Case No. OMB-C-C-16-0224. The Office of the Ombudsman (OMB) found probable cause to charge private respondent Clemente del Rosario Germar (private respondent) of violating: (i) Section 7 of Republic Act No. (RA) 6713<sup>1</sup> for the years 2008 to 2015; and (ii) Article 183 of the Revised Penal Code (RPC) for the years 2006 to 2015. However, because of prescription, it dismissed the complaint as to violation of RA 6713 committed during the years 2002-2007, and violation of Article 183 of the RPC during the years 2002-2005. The charge of Falsification under Article 171 of the RPC was also dismissed.

<sup>1</sup> Code of Conduct and Ethical Standards for Public Officials and Employees, approved on 20 February 1989.

### Antecedents

Private respondent was a security guard of the Bureau of Customs (BOC) who assumed office on 01 April 1979 and resigned on 16 October 2015.<sup>2</sup> Pursuant to Investigation Authority No. 108-2014-9-24BC dated 03 September 2015<sup>3</sup>, petitioner Department of Finance – Revenue Integrity Protection Service (DOF-RIPS) conducted a lifestyle check on private respondent's assets, liabilities, net worth, business interests and financial connections.<sup>4</sup>

The DOF-RIPS compared private respondent's Statements of Assets, Liabilities and Networth (SALNs) from 2002-2014 with documents obtained from the Bureau of Internal Revenue, Land Registration Authority, Land Transportation Office, Securities and Exchange Commission, and Department of Trade and Industry.<sup>5</sup> The lifestyle check revealed that for the years 2002 until 2014, private respondent failed to declare in his SALNs several properties under his name and one property he donated in 2015 to his daughter, Michelle Germar (Michelle).<sup>6</sup>

The following original and transfer certificates of title and tax declarations from the Office of the Provincial Assessor of Malolos, Bulacan were discovered to have been issued in his name:

- a) TCT NO. T-366328 (M) covered by TD No. 2014-01010-0038, for the 50 sq.m. land located at Pulong Yantok, Angat;<sup>7</sup>
- b) TCT NO. T-348951 covered by TD No. 2014-2015-12542 and TD No. 2014-24015-12543 covering a 78 sq.m. residential apartment and lot located at Buhangin, Sta. Maria, and a 250 sq.m. Residential lot at P. Buhangin, Sta. Maria;<sup>8</sup>

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<sup>2</sup> *Rollo*, p. 72.

<sup>3</sup> *Id.* at 94-95.

<sup>4</sup> *Id.* at 72.

<sup>5</sup> *Id.* at 33.

<sup>6</sup> *Id.* at 72.

<sup>7</sup> *Id.* at 136.

<sup>8</sup> *Id.* at 136-137.



c) TD. No. 2014-24015-12779 covering a 36 sq.m. Residential house and lot located at P. Buhangin, Sta. Maria;<sup>9</sup>

d) OCT No. P-9542 P(M) under TD Nos. 2014-24015-12858, 2014-24015-12859, 2014-24015-12860 and 2014-24015-12861, covering the following:

i) residential lot located at P. Buhangin, Sta. Maria, with an area of 1,363 sq.m.;

ii) residential house located at P. buhangin, Sta. Maria, with an area of 55.25 sq.m.;

iii) residential house located at P. buhangin, Sta. Maria, with an area of 48 sq.m.; and

iv) residential house located at P. buhangin, Sta. Maria, with an area of 20 sq.m.;<sup>10</sup>

e) TCT NO. T-369909 (M) under TD No. 2014-24015-13501 covering a 65 sq.m. subdivision lot located at P. Buhangin, Sta. Maria;<sup>11</sup> and

f) TCT NO. T-361406 (M) under TD No. 2014-24015-12710 covering a 681 sq.m. subdivision lot located at P. Buhangin, Sta. Maria.<sup>12</sup>

On the other hand, two (2) properties were found in the name of Michelle, with TCT No. T-376098 transferred in her name by donation in 2015:

g) OCT No. 9567 (M) under TD No. 2014-24015-12870 covering a 1,342 sq.m. agri-vacant lot located at P. Buhangin, Sta. Maria;<sup>13</sup> and

h) TCT NO. T-376098 (M) under TD No. 2014-24015-12778 covering a residential house and lot located at KM 38, P. Buhangin, Sta. Maria.<sup>14</sup>

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<sup>9</sup> *Id.* at 137.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 137-138.

<sup>12</sup> *Id.* at 138.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*



The DOF found that private respondent declared in his SALNs, for the years 2002 to 2014, only three (3) out of the seven (7) properties registered in his name, *i.e.*, a residential property, a piggery, and an apartment, without declaring their real actual valuations.<sup>15</sup> It also noted that a criminal information for robbery was filed against private respondent by the Provincial Prosecutor of Malolos Bulacan, While it was eventually provisionally dismissed by the Regional Trial Court (RTC),<sup>16</sup> petitioner still made an untruthful statement when answered item 37(a) in his 2014 Personal Data Sheet (PDS)<sup>17</sup> “NO” to the question, “Have you ever been formally charged.”

On May 2016, the DOF filed a complaint against private respondent for violation of Section 7 of RA 3019<sup>18</sup>, Section 8 of RA 6713<sup>19</sup>, Article

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<sup>15</sup> *Id.* at 75-76.

<sup>16</sup> *Id.* at 77-78.

<sup>17</sup> *Id.* at 77.

<sup>18</sup> RA 3019. Anti-Graft and Corrupt Practices Act.

SECTION 7. Statement of assets and liabilities. - Every public officer, within thirty days after the approval of this Act or after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or chief of an independent office, with the Office of the President, or in the case of members of the Congress and the officials and employees thereof, with the Office of the Secretary of the corresponding House, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: Provided, That public officers assuming office less than two months before the end of the calendar year, may file their first statements in the following months of January.

<sup>19</sup> RA 6713. Code of Conduct and Ethical Standards for Public Officials and Employees.

SECTION 8. Statements and Disclosure. - Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statements of Assets and Liabilities and Financial Disclosure. - All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;
- (d) liabilities; and
- (e) all business interests and financial connections.

The documents must be filed:



171<sup>20</sup> for Falsification by a Public Officer and False Testimony, and Article 183<sup>21</sup> for Perjury under the RPC<sup>22</sup> before the OMB.

In its Decision dated 15 June 2017, the OMB found probable cause to charge private respondent of violating Section 7 of RA 3029 and Section 8 of RA 6713 for failing to disclose all his properties in his SALNs.<sup>23</sup> TCT No. T-376098 should have been declared in private respondent's 2002-2014

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- (a) within thirty (30) days after assumption of office;
  - (b) on or before April 30, of every year thereafter; and
  - (c) within thirty (30) days after separation from the service.

All public officials and employees required under this section to file the aforesaid documents shall also execute, within thirty (30) days from the date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain from all appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their business interests and financial connections in previous years, including, if possible, the year when they first assumed any office in the Government.

Husband and wife who are both public officials or employees may file the required statements jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

- (1) Constitutional and national elective officials, with the national office of the Ombudsman;
- (2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and all national executive officials with the Office of the President.
- (3) Regional and local officials and employees, with the Deputy Ombudsman in their respective regions;
- (4) Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and
- (5) All other public officials and employees, defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

(B) Identification and disclosure of relatives. – It shall be the duty of every public official or employee to identify and disclose, to the best of his knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) Accessibility of documents. - (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

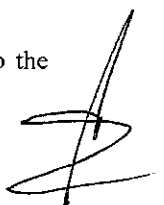
(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(D) Prohibited acts. - It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any purpose contrary to morals or public policy; or
- (b) any commercial purpose other than by news and communications media for dissemination to the general public.

<sup>20</sup> Act No. 3815. The Revised Penal Code.



SALNs having been donated only to his daughter, Michelle, in 2015.<sup>24</sup> Meanwhile, private respondent had no obligation to disclose OCT No. 9567 P (M) as it always had been in his daughter.<sup>25</sup> The same is true as to TD No. 2014-24015-12779 since this is merely a tax declaration and the same is not proof of ownership but a mere indicia thereof.<sup>26</sup> In any event, private respondent may only be prosecuted for failure to disclose the properties in his SALNs only for the years 2008 to 2014. This, considering that a violation of RA 6713 prescribes in eight (8) years from the time of its commission.<sup>27</sup>

The OMB further found that probable cause exists to charge private respondent with perjury for declaring in his PDS that he has not been criminally charged<sup>28</sup> in his 2014 SALN, and for deliberately asserting falsehood under oath for non-disclosure of all his properties for years 2006 to 2014. However, it ruled that “the facts narrated by the offender” are not “absolutely false,”<sup>29</sup> hence, there exists no probable cause to charge private respondent of falsification. The dispositive portion of the OMB Decision reads:

**WHEREFORE,** This Office finds probable cause to indict Clemente Del Rosario Germar for:

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ARTICLE 171. Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister. — The penalty of prisión mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

4. Making untruthful statements in a narration of facts;

<sup>21</sup> Act No. 3815. The Revised Penal Code.

ARTICLE 183. *False Testimony in Other Cases and Perjury in Solemn Affirmation.* — The penalty of arresto mayor in its maximum period to prisión correccional in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.

<sup>22</sup> *Rollo*, p. 71.

<sup>23</sup> *Id.* at 78.

<sup>24</sup> *Id.* at 80.

<sup>25</sup> *Id.* at 81.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 84.

<sup>29</sup> *Id.* at 82.

1) violation of Section 8, R.A. 6713 (seven informations) for his 2008 to 2014 SALNs for non-disclosure of the following real properties in Bulacan:

a) **TCT NO. T-366328 (M)** covered by TD No. 2014-0038, for the 1,000 sq. m. land located at Pulong Yantok, angat;

b) **OCT No. P-9542 P(M)** under TD Nos. 2014-24015-12858, 2014-24015-12859, 2014-24015-128-60 and 2014-24015-12861, covering the following:

- 1) residential lot located at P. Buhangin, Sta. Maria, with an area of 1,363 sq.m.;
- 2) residential lot located at P. Buhangin, Sta. Maria, with an area of 55.25 sq.m.;
- 3) residential lot located at P. Buhangin, Sta. Maria, with an area of 48 sq.m.;
- 4) residential lot located at P. Buhangin, Sta. Maria, with an area of 20 sq.m.;

c) **TCT NO. T-369909 (M)** under TD No. 2014-24015-13501 covering a 65 sq.m. subdivision lot located at P. Buhangin, Sta. Maria;

d) **TCT NO. T-361406 (M)** under TD No. 2014-24015-12710 covering a 681 sq.m. residential lot located at P. Buhangin, Sta. Maria;

e) **TCT NO. T-376098 (M)** under TD No. 2014-24015-12778 covering a residential house and lot located at KM 38, P. Buhangin, Sta. Maria;

2) Perjury penalized under Article 183 of the Revised Penal Code (nine informations) for his 2006-2014 SALNs for willfully and deliberately asserting falsehoods under oath for non-disclosure of the said properties; and

3) Perjury penalized under Article 183 of the Revised Penal Code for his 2014 PDS for willfully and deliberately asserting falsehoods under oath for non-disclosure of being charged criminally.

Let the corresponding Informations be filed against Clemlente Del Rosario Germar with the Metropolitan Trial Court of Manila.

The charges for violation of Section 7 of Republic Act 3019 and falsification by a Public Officer under Article 171(4) of the Revised Penal Code is **DISMISSED**.

**SO ORDERED.**<sup>30</sup>

<sup>30</sup> *Id.* at 84-87. The Decision dated 15 June 2017 was signed by Graft Investigation and Prosecution Officer III Myla Teona N. Teologio, reviewed by Director of PIAB-A Medwin S. Dizon, recommended approved by Assistant Ombudsman PAMO-I Aleu A. Amante, and approved by Overall Deputy



The Office of the Ombudsman denied petitioner's motion for partial reconsideration in its Order dated 08 November 2017.<sup>31</sup> Hence, the instant Petition for Certiorari, raising the following issues for consideration of the Court, to wit:

I

Whether the Ombudsman gravely abused its discretion in ruling that there is no probable cause to charge private respondent with Falsification under Article 171 (4) of the RPC for failure to disclose several of his properties in his SALN.

II

Whether the Ombudsman gravely abused its discretion in ruling that the charges for violation of RA 6713 for the years 2002-2007 have prescribed.

III

Whether the Ombudsman gravely abused its discretion in ruling that the charges for perjury under Article 183 of the RPC for the years 2002-2005 have prescribed.<sup>32</sup>

### **Ruling of the Court**

*The elements of falsification were lacking*

The OMB found no probable cause against private respondent for falsification under Article 171 (4) of the RPC for making untruthful narration of facts. According to the OMB, the third element of the crime,

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Ombudsman Melchor Arthur H. Carandang.

<sup>31</sup> *Id.* at 90. The Order was signed by Graft Investigation and Prosecution Officer III Myla Teona N. Teologio, reviewed by Director of PIAB-A Medwin S. Dizon, recommended approved by Assistant Ombudsman PAMO-I Aleu A. Amante, and approved by Overall Deputy Ombudsman Melchor Arthur H. Carandang.

<sup>32</sup> *Id.* at 39-40.



*i.e.*, that the statements made are absolutely false, was wanting.<sup>33</sup> We agree with the OMB, albeit on a different ground.

Article 171 of the RPC states:

ARTICLE 171. Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister. — The penalty of prisión mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

The elements of falsification for making untruthful narration of facts are discussed in *Office of the Ombudsman v. Santidad (Santidad)*:<sup>34</sup>

The crime of Falsification of Public Documents has the following elements: 1) the offender is a public officer, employee, or notary public; 2) **he takes advantage of his official position**; and 3) he falsifies a document by committing any of the acts enumerated in Article 171 of the Revised Penal Code. To warrant conviction for Falsification of Public Documents by making untruthful statements in a narration of facts under Article 171, paragraph 4 of the Revised Penal Code, the prosecution must

<sup>33</sup> Office of the Ombudsman Resolution, p. 12.

<sup>34</sup> G.R. Nos. 207154-222046, 05 December 2019. [Per CJ Peralta]



establish beyond reasonable doubt the following elements: 1) the offender makes in a public document untruthful statements in a narration of facts; 2) he has a legal obligation to disclose the truth of the facts narrated by him; and 3) the facts narrated by him are absolutely false. (Emphasis supplied)

In this case, the element of taking advantage of one's position is patently lacking. There is no showing that private respondent had the duty to make or prepare, or otherwise, to intervene in the preparation of the SALNs,<sup>35</sup> or he had the official custody of the same. **Taking advantage of one's official position for the purpose of committing falsification of public document under Article 171 "is considered present when the offender falsifies a document in connection with the duties of his office which consist of either making or preparing or otherwise intervening in the preparation of a document."**<sup>36</sup> A public officer is said to have taken advantage of his or her position if he or she has the **duty** to make or prepare or otherwise to intervene in the preparation of a document or if he or she has the official custody of the document which he or she falsifies.<sup>37</sup>

The preparation and filing of a SALN is not a special duty of any particular office. It is not based on rank or salary grade. The preparation and filing of a SALN is required of all public officers and employees "except those who serve in an honorary capacity, laborers and casual or temporary workers."<sup>38</sup> Hence, when it comes to the preparation of SALNs, no office has an advantage over the other.

Private respondent is a security guard. To be sure, the documents he is required to make or prepare as part of the official duties of his position are security reports and attendance reports. These are the documents that he could prepare to give undue advantage to himself since he controls these reports. The SALN is a document he is required to prepare not because of the specific duties of a security guard, but by virtue of private respondent being a government employee. Hence, private respondent's failure to disclose in his SALNs several

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<sup>35</sup> *Id.*

<sup>36</sup> *Siquian v. People*, G.R. No. 82197, 13 March 1989, 253 Phil. 217-230 (1987) [Per *J. Cortes*] citing *U.S. v. Inosanto*, G.R. No. 6896, 23 October 2011, 20 Phil. 376-378 (1911); *People v. Uy*, G.R. No. L-9460, 23 April 1957, 101 Phil. 159 (1957).

<sup>37</sup> *DOF RIPS v. Office of the Ombudsman and Miriam R. Casuyuran*, G.R. No. 240137, 09 September 2020 [Per *J. Carandang*].

<sup>38</sup> RA 6713, Sec. 8 (A).

other real properties is not tantamount to taking advantage of his position as customs security guard.

We should bear in mind that for crimes under the RPC, all elements must be present for prosecution to ensue. Considering that not all elements of falsification for making untruthful narration of facts were shown to be present, no grave abuse of discretion can be ascribed to the Office of the Ombudsman when it dismissed the charge for violation of Article 171(4).

*The prescriptive period for violation of RA 6713 should be counted from the date of commission, specifically, the date of filing of the SALN*

For violations of special laws, the prescriptive period is provided in Act No. (Act) 3326,<sup>39</sup> which states:

SECTION 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; **(c) after eight years for those punished by imprisonment for two years or more, but less than six years; and** (d) after twelve years for any other offense punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years. Violations penalized by municipal ordinances shall prescribe after two months. [Emphasis supplied].

RA 6713 is a special law, thus, the computation of prescriptive periods for violation of RA 6713 is governed by Act 3326, in particular, Section 1 (c) thereof, which provides for an 8-year prescriptive period.

<sup>39</sup> Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances.



Under Section 2<sup>40</sup> of Act 3326, there are two (2) situations when prescriptive periods should be reckoned. The first is the actual "day of commission of the offense," while the second is the day of discovery, which is known as the "blameless ignorance doctrine." The "blameless ignorance doctrine" was explained in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*:<sup>41</sup>

Generally, the prescriptive period shall commence to run on the day the crime is committed. That an aggrieved person "entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises," does not prevent the running of the prescriptive period. An exception to this rule is the "blameless ignorance" doctrine, incorporated in Section 2 of Act No. 3326. Under this doctrine, "the statute of limitations runs only upon discovery of the fact of the invasion of a right which will support a cause of action. **In other words, the courts would decline to apply the statute of limitations where the plaintiff does not know or has no reasonable means of knowing the existence of a cause of action.**"<sup>42</sup> (Emphasis supplied)

Based on the facts of this case, We rule that the prescriptive period of eight years should be counted from the date of commission, specifically, the date of filing of the SALN. Section 7 of RA 3019, the Anti-Graft and Corrupt Practices Act, provides:

Section 7. Statement of assets and liabilities. — Every public officer, within thirty days after assuming office, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of department or Chief of an independent office, with the Office of the President, a true, detailed sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: Provided, That public officers assuming office less than two months before the end of the calendar year, may file their first statement on or before the fifteenth day of April following the close of the said calendar year.

<sup>40</sup> SECTION 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceeding for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy. [Emphasis supplied.]

<sup>41</sup> G.R. No. 135715, 13 April 2011, 664 Phil. 16-36 [Per J. Perez].

<sup>42</sup> *Id.*

In *Del Rosario v. People (Del Rosario)*,<sup>43</sup> this Court held that the prescriptive period should be reckoned from the time of filing, or non-filing, of the SALN. There were reasonable means for the OMB and the Civil Service Commission (CSC) to be aware of the commission of the offense being the agencies invested with the primary responsibility of monitoring compliance with RA 6713. Moreover, the SALNs of government employees and officials are accessible to the public for copying or inspection at reasonable hours, thus, this Court ruled in *Del Rosario* that the State had no reason not to be presumed to know of therein petitioner's omissions within the eight-year period of prescription.

The recent case of *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman and Miriam R. Casayuran*<sup>44</sup> echoed the ruling in *Del Rosario*, thus:

The Ombudsman is correct that Casayuran can no longer be penalized for non-filing of her SALNs for Cys 1995, 1997, and 1998 under [Republic Act] No. 6713. In *Del Rosario v. People*, We explained that the prescriptive period for filing an action for violation of Sec. 8 of [Republic Act] No. 6713 is eight (8) years pursuant to Sec. of Act No. 3326. Based on Sec. 2 of the same law, the period shall begin to run either from the day of the commission of the violation of the labor, if the violation not be known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment. The second mode is an exception to the first and is known as the discovery rule or the blameless ignorance doctrine. In *Del Rosario*, we refused to apply the blameless ignorance doctrine in determining when prescription should run against the petitioner who failed to file her SALN. Sec. 8 of RA No. 6713 itself makes the SALNs available to the public for copying or inspection at reasonable hours. The basis of the crime could thus be plainly discovered or were readily available to the public. That being the case, prescription shall run from the commission of the offense, which in this case was the non-filing of the SALN. The DOF-RIPS filed [its] complaint on October 17, 2013 or more than a decade after Casayuran failed to file her 1995, 1997, and 1998 SALN. Consequently, the Ombudsman was correct in ruling that the action for such violation has prescribed.<sup>45</sup>

<sup>43</sup> G.R. No. 199930, 27 June 2018 [Per J. Bersamin].

<sup>44</sup> G.R. No. 240137, 09 September 2020 [Per J. Carandang].

<sup>45</sup> *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman and Miriam R. Casayuran*, G.R. No. 240137, 09 September 2020 [Per J. Carandang].



Applying the ruling in *Del Rosario*<sup>46</sup> and *DOF-RIPS v. Ombudsman and Casayuran* to this case, it is clear that there was no grave abuse of discretion on the part of the OMB when it dismissed the complaint for violation of Section 8 of RA 6713 with respect to private respondent's SALNs for the years 2002–2007.

*The prescriptive period for violation of Article 183 of the RPC, or perjury, is ten (10) years upon filing of the SALN*

Contrary to petitioner's claim, the OMB did not commit any grave abuse of discretion in ruling that the charges for perjury due to private respondent's non-disclosure in his 2002 to 2005 SALN had already prescribed.

The impossible penalty for perjury under Article 183 of the RPC is “*arresto mayor* in its maximum period to *prision correccional* in its minimum period,”<sup>47</sup> which are correctional penalties.<sup>48</sup> Thus, in relation to Article 90<sup>49</sup> of the RPC, perjury prescribes in ten (10) years.

<sup>46</sup> *Supra* at note 41.

<sup>47</sup> Act No. 3815, Revised Penal Code, Article 183 states in full:

ARTICLE 183. False Testimony in Other Cases and Perjury in Solemn Affirmation. — The penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires. Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.

<sup>48</sup> Act No. 3815. Revised Penal Code, Article 25 states:

ARTICLE 25. *Penalties Which May Be Imposed.* — The penalties which may be imposed, according to this Code, and their different classes, are those included in the following:

Xxx

*Correctional penalties:*

Prisión correccional,

Arresto mayor,

Suspensión,

Destierro.

Xxx

<sup>49</sup> ARTICLE 90. Prescription of Crimes. — XXX

Xxx

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The prescriptive period for crimes punishable under the RPC are counted from the time of discovery pursuant to Article 91 of the RPC.<sup>50</sup> **In this case, however, discovery should be reckoned from the time of filing of the SALN because upon filing, perjury is deemed consummated.** Once the SALN is filed, it is subject to review by the proper authorities. It is during the conduct of the review that errors or inaccuracies in the SALN may be determined. Ten (10) years is more than enough time to discover any such errors or inaccuracies. Further, the date of filing as the date when the prescriptive period begins to run harmonizes the provisions of the RPC and Sec. 8 (C) (4) of RA 6713:

SEC. 8. *Statements and Disclosure.* — Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

X X X X

(C) *Accessibility of documents.* -

X X X X

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

“[T]he statement may be destroyed unless needed in an ongoing investigation” after ten (10) years implies that the investigation should have commenced prior to the end of the ten-year period. In this case, the lifestyle check on private respondent was commenced in 2015<sup>51</sup> and the Joint Complaint-Affidavit was filed on 30 May 2016.<sup>52</sup> Since more than (10) years had lapsed, prosecution for perjury for private respondent's SALNs for the years 2002– 2005 is now barred by prescription.

<sup>50</sup> ARTICLE 91. Computation of Prescription of Offenses. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

Xxx

<sup>51</sup> The exact date when the lifestyle check was conducted is not stated in the Petition, but it can be assumed that it was commenced in 2015 because the SALNs involved are from 2002– 2014. The 2014 SALN was filed in 2015 based on Annex G-12, *rollo* pp. 166-167.

<sup>52</sup> *Rollo*, p. 131.


*The OMB did not commit grave abuse  
of discretion*

The Court has consistently refrained from interfering with the discretion of the Ombudsman to determine the existence of probable cause and to decide whether or not an Information should be filed.<sup>53</sup> Nonetheless, for this Court to review the Office of the Ombudsman's exercise of its investigative and prosecutorial powers in criminal cases, there must be a clear showing of grave abuse of discretion.<sup>54</sup> Grave abuse of discretion is a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility. Petitioner, in this case, must prove that public respondent committed not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction. Mere abuse of discretion is not enough; it must be grave.<sup>55</sup>

In this case, however, we find that the OMB did not commit grave abuse of discretion when it dismissed the charges for falsification for lack of probable cause, as well as the charges for perjury for the years 2002 to 2005 and for violation of Section 8, RA 6713 for the years 2002–2007 on the ground of prescription. Contary to petitioner's assertions, and as we have discussed, the OMB properly considered the applicable laws and jurisprudence in dismissing the said charges. Hence, no grave abuse of discretion may be attributed to it.

**WHEREFORE**, premises considered, the petition is hereby **DISMISSED**. The Office of the Ombudsman's Resolution dated 15 June 2017, and its Order dated 08 November 2017 in Case No. OMB-C-C-16-0224 are hereby **AFFIRMED**.

**SO ORDERED.**

  
**RODIL V. ZALAMEDA**  
Associate Justice

<sup>53</sup> *Reyes v. Ombudsman*, G.R. Nos. 212593-94, 213163-78, 213540-41, 213542-43, 215880-94 & 213475-76, 15 March 2016 [Per SAJ Bernabe].

<sup>54</sup> *Republic v. Ombudsman*, G.R. No. 198366, 26 June 2019 [Per J. Leonen].

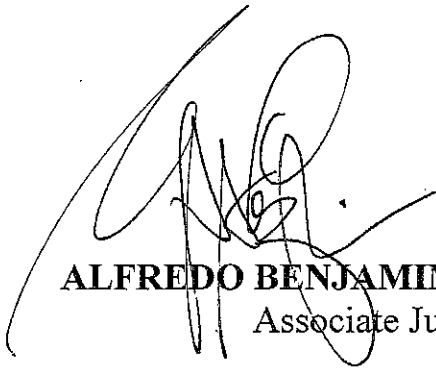
<sup>55</sup> *Belmonte v. Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices*, G.R. No. 197665, 13 January 2016, 778 Phil. 221-235 (2016) [Per J. (now CJ) Peralta].



**WE CONCUR:**



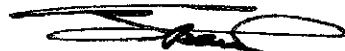
**DIOSDADO M. PERALTA**  
Chief Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



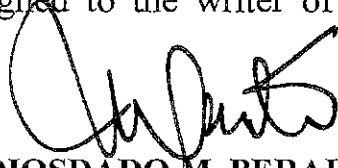
**ROSMARID. CARANDANG**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice

**CERTIFICATION**

Pursuant to the Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice

