



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

OFFICE OF THE DEPUTY
OMBUDSMAN FOR LUZON,

Petitioner,

G.R. No. 215877

Present:

LEONEN, J.,
Chairperson,

HERNANDO,*

INTING,

DELOS SANTOS, and

LOPEZ, J., JJ.

- versus -

HURLEY D. SALIG,

Respondent.

Promulgated:

June 16, 2021

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DECISION

DELOS SANTOS, J.:

The Case

This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated May 23, 2014 and the Resolution³ dated November 17, 2014 of the Court of Appeals (CA) in CA-GR. SP No. 130515, which partially granted respondent's petition and modified the Decision⁴ dated March 26, 2012 and the Order⁵ dated May 2, 2013 of the Office of the Deputy Ombudsman for Luzon (ODOL), finding respondent guilty of Simple Negligence.

* On official leave.

¹ *Rollo*, pp. 36-55.

² *Id.* at 12-29; penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Mariflor P. Punzalan Castillo and Victoria Isabel A. Paredes, concurring.

³ *Id.* at 31-32.

⁴ *CA rollo*, pp. 98-115.

⁵ *Id.* at 27-35.

The Facts

Respondent Hurley D. Salig (Salig) was employed sometime in 1986 as a Forester under the Bureau of Forest Development. He rose through the ranks until he was designated as Officer-in-Charge of the Provincial Environment and Natural Resources Office (PENRO) of Trece Martires City, Cavite under the Department of Environment and Natural Resources (DENR).⁶

On October 24, 2005, the Office of the President (OP) received a letter-complaint dated September 26, 2005 from an anonymous "Concerned Citizen of Cavite" addressed to then Presidential Anti-Graft Commission (PAGC) Chairperson Constanca de Guzman. The anonymous sender alleged that Salig committed corrupt practices and acquired unexplained wealth by owning a three-storey building in Calamba, Laguna, five vehicles, two nightclubs in Calamba, and other real properties.⁷

The OP transmitted the letter-complaint to the PAGC. The PAGC opined that Salig was not a presidential appointee and not within the jurisdiction of the PAGC. Thus, the PAGC endorsed the letter-complaint to the Office of the Ombudsman (OMB).⁸

The OMB, through its Public Assistance and Corruption Prevention Office (PACPO)-Luzon, conducted a fact-finding investigation and lifestyle check on Salig.⁹ PACPO requested assistance from various agencies/offices namely, the Land Transportation Office, City/Municipal Assessor's Offices in select towns in Laguna, petitioner ODOL, PENRO-DENR, and the Department of Trade and Industry (DTI), for pertinent documents showing the various properties owned by Salig and his spouse, Salig's Service Record, and his Statements of Assets, Liabilities and Net Worth (SALNs).¹⁰

In a Fact-Finding Report¹¹ dated June 27, 2007, the assigned graft investigation officer found "sufficient evidence to warrant further preliminary investigation and/or administrative adjudication for possible violation of Republic Act (R.A.) No. 1379¹² against Salig"¹³ and recommended the filing of appropriate criminal and administrative complaints against Salig with PACPO as nominal complainant.¹⁴ The said Report contained a list of Salig and his family's real and personal properties

⁶ Id. at 38.

⁷ Id.

⁸ Id.

⁹ Docketed as CPL-L-05-2245.

¹⁰ *Rollo*, pp. 38-39.

¹¹ *CA rollo*, pp. 38-40.

¹² An Act Declaring the Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceedings Therefor; approved on June 18, 1955.

¹³ *CA rollo*, p. 39.

¹⁴ Id. at 40.

and business interests which the CA summarized as follows:

1. Letter-reply from the LTO disclosed that PENRO Salig owns three (3) utility vehicles, to wit:

- (a) MITSUBISHI STRADA 2006 MODEL,
- (b) HYUNDAI STAREX GOLD CRD 2005 MODEL, and
- (c) MITSUBISHI-UTILITY 2002 MODEL;

Another vehicle, a Honda City 1998 model, is registered under the name of [Salig's] wife, Mrs. Elenita Tamisin Salig;

2. The Office of the City Assessor, Calamba City, Laguna submitted two (2) Declarations of Real Property in the name of Spouses Salig, to wit:

(a) TD No. 04534-RESIDENTIAL LOT (168 square meters), acquired on April 26, 2000 for ₱117,600.00, covered by TCT No. T-461154, located at Sta. Cecilia Subdivision, Barangay Parian, Calamba City, Laguna; and

(b) TD No. 04898-RESIDENTIAL LOT (267 square meters), Block 3, Lot 6, Sta. Cecilia Subd., [Barangay] Parian, Calamba City, Laguna, with a Market Value of ₱1,629,175.25;

3. The sworn Statement of Assets, Liabilities and Net Worth (SALN) of respondent Salig for the years 2002 to 2005 disclosed that he has a total net worth of Five Million [pesos], more or less;

x x x x

5. The records of the Department of Trade and Industry (DTI) reveal that respondent's wife, Elenita Tamisin Salig, is engaged in the following business ventures:

<u>Business Name</u>	<u>Location</u>	<u>Date of Registration</u>
(a) Joval Billiard Hall	Los Baños, [Laguna]	January 2002
(b) Twin-Queen Travel and Tours	Calamba City, [Laguna]	January 2005
(c) Flawless Videoke Bar and Disco	Calamba City, [Laguna]	August 2005
(d) Flawless 2 Cafe Bar and Videoke	Los Baños, [Laguna]	August 2005
(e) Salig Management Consultancy and Services	Calamba City, [Laguna]	August 2005 ¹⁵

Pursuant to the Fact-Finding Report, the PACPO filed a Complaint-Affidavit¹⁶ against Salig with the ODOL.¹⁷ The complaint centered on Salig's alleged undeclared wealth in his SALNs for the years 2002 to 2005.

¹⁵ Rollo, p. 14.

¹⁶ CA rollo, p. 37.

¹⁷ Docketed as OMB-L-A-07-0481-G.

On October 23, 2007, Salig filed his Counter-Affidavit¹⁸ with Motion to Dismiss. Salig claimed that his and his wife's properties were lawfully acquired and that they took out loans to fund their business ventures.¹⁹

With regard to the real properties, Salig explained that he inherited the house and lot in Los Baños, Laguna from his parents and that he acquired the property in Calamba City through a bank loan.²⁰

As for the various businesses, Salig stated that he obtained a Real Estate Loan in the amount of ₱3,102,699.05 from RCBC Savings Bank on September 30, 2003 to pursue and make profitable the following businesses: (1) Twin-Queen Travel and Tours, (2) Salig Management and Consultancy Services, (3) Flawless Videoke Bar and Disco, and (4) Flawless 2 Cafe Bar and Videoke. Salig argued that these businesses augmented their family income.²¹

Also, Salig averred that the four vehicles were acquired to support the car rental of their travel and tour business through car loans from various banks, namely the RCBC Savings Bank, Philippine National Bank, and East West Bank.²²

Salig prayed that the complaint against him be dismissed for lack of merit or for insufficiency of evidence.

The Ruling of the Deputy Ombudsman for Luzon

In a Decision²³ dated March 26, 2012, the ODOL found Salig guilty of Grave Misconduct, Serious Dishonesty, and violation of Section 8²⁴ of R.A. No. 6713²⁵ and imposed on him the penalty of dismissal from the service. The dispositive portion states:

WHEREFORE, judgment is hereby rendered finding respondent Hurley D. Salig GUILTY of Grave Misconduct, Serious Dishonesty and violation of Section 8 of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees. Respondent Hurley D. Salig is hereby meted the penalty of DISMISSAL FROM THE SERVICE with accessory penalties of

¹⁸ CA rollo, pp. 84-88.

¹⁹ Rollo, p. 15.

²⁰ Id.

²¹ Id.

²² Id.

²³ Supra note 4.

²⁴ 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

²⁵ Also known as the Code of Conduct and Ethical Standards for Public Officials and Employees; approved on February 20, 1989.

Cancellation of Eligibility, Forfeiture of Retirement Benefits and Perpetual Disqualification for Re-employment in the Government Service pursuant to Section 10, Rule III, Administrative Order No. 07, as amended by Administrative Order No. 17 in relation to Section 25 of Republic Act No. 6770.

The Secretary of the Department of Environment and Natural Resources (DENR), Visayas Avenue, Quezon City, is hereby directed to implement this DECISION immediately upon receipt thereof pursuant to Section 7, Rule III of Administrative Order No. 17 (Ombudsman Rules of Procedure) in relation to Memorandum Circular No. 1, Series of 2006 dated 11 April 2006, and to promptly inform this Office of the action taken hereon.

SO DECIDED.²⁶

The ODOL declared that the evidence against Salig proved that he acquired properties that were manifestly disproportionate to his salary and other lawful income. The ODOL stated that this constituted grave misconduct since the elements of corruption, clear intent to violate the law, and flagrant disregard of established rule were present.

Also, the ODOL found Salig liable for Serious Dishonesty and for violation of Section 8 of R.A. No. 6713 for his failure to declare in his SALNs, for the years 2002-2005, some of his properties and his wife's business ventures and properties.

Salig filed a Motion for Reconsideration (MR) asserting that (1) the severe penalty of dismissal was not warranted under the circumstances, and (2) the ODOL should have dismissed the complaint outright for want of proper verification and certification against forum shopping.

In an Order²⁷ dated May 2, 2013, the ODOL denied the MR.

Salig then filed a petition for review under Rule 43 of the Rules of Court with the CA.

The Ruling of the CA

In a Decision²⁸ dated May 23, 2014, the CA partially granted Salig's petition and modified the ODOL's Decision and Order, finding him guilty of Simple Negligence and imposed on him the penalty of six-month suspension without pay. The dispositive portion states:

WHEREFORE, the petition is PARTIALLY GRANTED. The

²⁶ CA rollo, pp. 113-114.

²⁷ Supra note 5.

²⁸ Supra note 2.

Decision dated March 16, 2012 and Order dated May 2, 2013 of the Office of the Deputy Ombudsman for Luzon are MODIFIED to the effect that the findings of Grave Misconduct and Dishonesty against Hurley Salig are hereby SET ASIDE and in lieu thereof, the latter is hereby found guilty of Simple Negligence and shall suffer the penalty suspension of six months without pay.

SO ORDERED.²⁹

The CA ruled on the procedural aspect that the Complaint-Affidavit filed by the ODOL, through PACPO, need not contain a certification of non-forum shopping since the certification would be necessary only in cases where the complaint was filed by a complainant other than said office. However, in this case, the complainant was PACPO-Luzon, an organizational unit from the same office. Also, the CA declared that the complaint was filed after the verification was made with the advice that no similar case was filed against Salig before the OMB. Thus, the required certification of non-forum shopping was deemed satisfied.³⁰

Nevertheless, the CA stated that any irregularity in the complaint, that it was not verified or that a certification of non-forum shopping was not attached, was deemed waived when Salig failed to raise the same seasonably in his Counter-Affidavit.³¹

As to the substantive aspect, the CA ruled that Salig's failure to include several properties and business ventures in his SALNs did not amount to grave misconduct since such act did not deter him, as a public official, from the dispensation of his public functions.³²

Also, the CA stated that mere misdeclaration in the SALN does not automatically amount to dishonesty. There should be malicious intent to conceal the truth or make false statements. From the evidence on record, the CA declared that the element of intent to commit serious dishonesty and malicious concealment of assets were not substantially established. The records did not show that Salig intended to defraud the government or conceal unexplained wealth. Thus, Salig was found guilty only of Simple Negligence and considering that this was his first offense, imposed on him the penalty of six-month suspension without pay.³³

The ODOL filed an MR which was denied in a Resolution³⁴ dated November 17, 2014.

Hence, this petition.

²⁹ *Rollo*, p. 28.

³⁰ *Id.* at 17-18.

³¹ *Id.* at 18.

³² *Id.* at 18-20.

³³ *Id.* at 24-26.

³⁴ *Supra* note 3.

The Issue

Whether or not the CA erred in finding Salig guilty of Simple Negligence for misdeclaration and failure to include several properties and business ventures in his SALNs.

The Court's Ruling

The petition is meritorious.

The ODOL asserts that there was a glaring discrepancy between Salig's income and his and his wife's properties and business interests since he was employed as a Forester in 1986 until his appointment as Officer-in-Charge of PENRO. The ODOL stated that the alleged additional resources in the form of loans to finance the vehicles and business ventures were found to be insufficient.

In the present case, the allegations of grave misconduct and dishonesty against Salig originated from his purported failure to declare all his assets and business interests in his SALNs for the years 2002 to 2005. The OMB, through PACPO-Luzon, obtained documents and certifications from various government agencies regarding Salig's and his wife's existing properties and business interests. Salig's Service Record was also retrieved for the purpose of comparing his income with his properties.

As a defense, Salig explained that he did not willfully and maliciously make untruthful statements in his SALNs for the years 2002 to 2005. Salig stated that he placed the real and personal properties, as well as the businesses of his wife, in his SALNs which all came from legitimate sources. Salig presented evidence that he inherited the house and lot in Los Baños and the real property in Calamba through a bank loan. As for his wife's four business ventures, Salig obtained a real estate loan from RCBC Savings Bank in the amount of ₱3,102,699.05 to raise capital and make the businesses profitable. Salig submitted proof that the establishments were duly registered in his wife's name with the DTI. Also, Salig asserted that the four vehicles were acquired to support the car rental of their travel and tour business through car loans from various banks, namely RCBC Savings Bank, Philippine National Bank, and East West Bank. Thus, Salig maintained that the accumulation of his wealth came from legitimate sources – mostly from bank loans.

The ODOL ruled against Salig and held him liable for (1) Grave Misconduct, for amassing wealth that was manifestly disproportionate to his income, and (2) Dishonesty and violation of Section 8 of R.A. No. 6713, for failure to include all his properties and business interests in his SALNs for

the years 2002 to 2005. The ODOL imposed the penalty of dismissal from the service. On the other hand, the CA granted Salig's petition and found him guilty only of Simple Negligence with the penalty of suspension for six months without pay.

As culled from the records, the table shows Salig's Service Record, positions held and corresponding salaries.³⁵

Inclusive Dates		Position	Status	Salary	Place of Assignment
From	To				
11/21/86	12/31/87	Forester	Casual	₱32.82/D	BFD-Region 10
01/01/88	01/01/89	Forester	Casual	53.60/D	-do-
01/02/89	06/30/89	Sr. Forester	Permanent	27,348.00/A	-do-
07/01/89	01/01/92	Forester II	-do-	53,016.00/A	-do-
01/02/92	02/26/94	-do-	-do-	53,556.00/A	-do-
03/01/94	12/31/94	For. Mgt. Spec. II	-do-	61,956.00/A	-do-
01/01/95		-do-	-do-	73,956.00/A	-do-
01/02/95	12/31/95	-do-	-do-	74,484.00/A	-do-
01/01/96	12/31/96	-do-	-do-	93,912.00/A	-do-
01/01/97	02/09/97	-do-	-do-	119,544.00/A	-do-
02/10/97	10/31/99	Sr. Forest Mgt. Spec.	-do-	137,940.00/A	-do-
11/01/97	02/06/98	-do-	-do-	164,580.00/A	-do-
02/07/98	12/31/99	CENRO	-do-	216,336.00/A	-do-
01/01/00	02/[07]/01	-do-	-do-	237,972.00/A	-do-
02/[08]/01	06/30/01	-do-	-do-	243,924.00/A	-do-
07/01/01	02/06/04	-do-	-do-	256,118.00/A	-do-
02/07/04	PRESENT	-do-	-do-	262,524.00/A	-do-

Also, the records show Salig's SALNs summary for the years 2002 to 2005:³⁶

Real Properties	2002	2003	2004	2005
House & Lot in Los Baños	₱200,000.00	₱200,000.00	₱ 200,000.00	₱200,000.00
House & Lot in Calamba	7,000,000.00	7,000,000.00	7,000,000.00	7,000,000.00
Lot in Bay	200,000.00	200,000.00	200,000.00	200,000.00
Personal Properties				

³⁵ CA rollo, pp. 103-104.

³⁶ Rollo, pp. 25-26.

Endeavor Mitsubishi	₱679,000.00	₱679,000.00	₱679,000.00	₱679,000.00
Mitsubishi Adventure	700,000.00 (2001)	—	700,000.00 (2004)	700,000.00 (2004)
Total Assets	₱8,779,000.00	₱8,079,000.00	₱8,779,000.00	₱8,779,000.00
Liabilities				
House & Lot Loan - RCBC	₱3,000,000.00	₱3,000,000.00	₱3,000,000.00	₱3,000,000.00
Car Loan – RCBC	500,000.00	—	500,000.00	500,000.00
GSIS Salary Loan	150,000.00	150,000.00	150,000.00	150,000.00
Total Liabilities	₱3,650,000.00	₱3,150,000	₱ 3,650,000	₱3,650,000.00
Net Worth	₱5,129,000.00	₱4,929,000.00	₱5,129,000.00	₱5,129,000.00
Business Interests	Flawless Disco & Restaurant Tri E Lending	Flawless Disco & Restaurant Tri E Lending	Flawless Disco & Restaurant (Los Baños) Flawless Disco & Restaurant (Calamba) Tri E Lending	Flawless Disco & Restaurant (Los Baños) Flawless Disco & Restaurant (Calamba) Tri E Lending

Based on the tables, the ODOL opined that Salig received the total income of ₱3,495,885.48 from 1986 until 2006 and that such income was manifestly disproportionate to his real and personal properties, as well as business interests.

This Court is not convinced.

After a careful evaluation of Salig's income, properties and SALNs, we agree with the CA that (1) failing to include properties in the SALN does not amount to grave misconduct, and (2) mere misdeclaration in the SALN does not amount to dishonesty.

Grave or gross misconduct is a serious transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. The word "misconduct" implies a wrongful intention and not a mere error of judgment. For gross misconduct to exist, there must be reliable evidence showing that the acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules.³⁷

³⁷ *Pleyto v. Philippine National Police-Criminal Investigation and Detection Group*, 563 Phil. 842, 909 (2007).

Dishonesty is committed when an individual intentionally makes a false statement of any material fact, practices or attempts to practice any deception or fraud in order to secure his or her examination, registration, appointment, or promotion. It is understood to imply the disposition to lie, cheat, deceive, betray or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; and the lack of fairness and straightforwardness.³⁸

For both grave misconduct and dishonesty, intention is an important element.

We agree with the findings of the CA that acquiring unexplained wealth and failing to include properties in the SALN do not amount to grave misconduct since the said acts do not deter the public official from the dispensation of his public functions as ruled by this Court in *Gupilan-Aguilar v. Office of the Ombudsman*.³⁹ In said case, we ruled that the complained act or omission must have a direct relation and be linked to the performance of official duties to constitute misconduct. There should be a willful, intentional neglect and failure to discharge the duties of the office. Thus, the owning of properties disproportionate to one's salary and not declaring them in the corresponding SALNs cannot be classified as grave misconduct.

Also, the element of intent on Salig's part to commit serious dishonesty and malicious concealment of his assets were not substantially established. As found by the CA:

Indeed, as regards the vehicles, it is true that the Hyundai Starex was not declared in Salig's SALNs for the years 2002-2005 but there is no showing that it was done to defraud the government or to conceal unexplained wealth. Besides, there is no evidence indicating that the vehicle was acquired on the same period as the SALNs on record. The only basis of the public respondent in stating that Salig failed to declare the Hyundai Starex in his 2002-2005 SALNs was the letter dated November 29, 2006 from the Land Transportation Office verifying the items of vehicles registered in the names of Salig and his wife, Elenita. The letter did not disclose the year that the said vehicle was registered in the name of Salig or the year in which he acquired the same. We cannot thus assume that Salig acquired the Hyundai Starex between 2002-2005 which would give rise to his duty to declare the same in his SALN in that given period. As to the Honda City 1998 model, the records show that it was registered to Elenita, and Salig explained that the same was not included in his SALN since it was already sold through a car broker. Anent the Mitsubishi Adventure, while it is correct that Salig failed to declare the same in 2003, however, his intent to conceal the same was negated when he declared it in his SALNs for 2004-2005.

³⁸ *Office of the Ombudsman v. Valencia*, 664 Phil. 190, 205 (2011); *Brucal v. Desierto*, 501 Phil. 453, 465 (2005).

³⁹ 728 Phil. 210 (2014).

We also go over Tax Declaration Nos. 04534 and 04898 which described the real properties covered therein as Lot 4 and Lot 6 of Block 3, respectively, of Sta. Cecilia Subdivision in Calamba City and were adjacent and contiguous to each other. Moreover, the acquisition cost of the property covered by TD No. 04534 was only ₱117,600.00 and while that of the property covered by TD No. 04898 was not indicated, its market value already amounted to ₱1,629,175.25. We notice that Salig's SALNs described a house and lot in Calamba City under the column "Real Properties" with an acquisition cost of ₱7,000,000.00. The properties covered by TD Nos. 04534 and 04898 would ineluctably correspond to the property in Calamba City which Salig declared in his 2002-2005 SALNs. Simply put, Lots 4 and 6, Block 3 of Sta. Cecilia Subdivision are the same properties as the "Calamba property" that Salig declared in his SALNs although he did not specify therein that it consists of two lots. Hence, it is erroneous to state that these properties covered by TD Nos. 04534 and 04898 were undeclared.

Besides, it would be absurd to entertain the idea that Salig intended to conceal his wealth when on record he even bloated the value of his property. Also, if that was his intention altogether, he should not have included his property in Bay, Laguna in his SALN considering that the same was not yet registered in his name as indicated in the Certification dated November 29, 2006 of the municipal assessor of the area.

In the same vein[,] We could not consider as dishonesty the failure of Salig to specify all the business ventures managed by his wife Elenita. It is very apparent in the face of his SALN that his wife, as an entrepreneur, was engaged in business or several businesses. By declaring the occupation of his wife as an entrepreneur, Salig professed his wife's business interests although he failed to name all of them.⁴⁰

Truly, it should be understood that the laws on SALN aim to curtail the acquisition of unexplained wealth. However, where the source of the undisclosed wealth can be properly accounted for, then it is "explained wealth" which the law does not penalize.⁴¹

Also, the law does not automatically impose liability on erring public officials or employees. Section 10 of R.A. No. 6713 and its Implementing Rules and Regulations (IRR) provide for a review and compliance procedure for SALN submissions and give public officials or employees an opportunity to correct erroneous entries or supply missing information in their SALN to conform to the prescribed requirements.

Section 10 of R.A. No. 6713 states:

SEC. 10. *Review and Compliance Procedure.* — (a) The designated Committees of both Houses of the Congress shall establish

⁴⁰ *Rollo*, pp. 26-27.

⁴¹ *Ombudsman v. Racho*, 656 Phil. 148, 161 (2011).

procedures for the review of statements to determine whether said statements which have been submitted on time, are complete, and are in proper form. **In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.**

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) **The heads of other offices shall perform the duties stated** in subsections (a) and (b) hereof **insofar as their respective offices are concerned**, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department. (Emphases supplied)

Section 1, Rule VIII (Review and Compliance Procedure) of the Rules⁴² Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713) states:

SEC. 1. The following shall have the authority to establish compliance procedures for the review of statements to determine whether said statements have been properly accomplished:

- (a) In the case of Congress, the designated committees of both Houses of Congress subject to approval by the affirmative vote of the majority of the particular House concerned;
- (b) **In the case of the Executive Department, the heads of the departments, offices and agencies** insofar as their respective departments, offices and agencies are concerned subject to approval of the Secretary of Justice;
- (c) In the case of the Judicial Department, the Chief Justice of the Supreme Court; and
- (d) In the case of the Constitutional Commissions and other Constitutional Offices, the respective Chairman and members thereof; in the case of the Office of the Ombudsman, the Ombudsman.

The above official shall likewise have the authority to render any opinion interpreting the provisions on the review and compliance

⁴² Promulgated on May 27, 1989. See also CSC Resolution No. 06-0231 dated February 1, 2016, which took effect on April 23, 2006.

procedures in the filing of statements of assets, liabilities, net worth and disclosure of information.

In the event said authorities determine that a statement is not properly filed, they shall inform the reporting individual and direct him to take the necessary corrective action.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in the Code. (Emphases supplied)

It is clear that Section 10 of R.A. No. 6713 and its IRR allow for corrective measures.⁴³ The head of office has the authority to establish compliance procedures and review whether SALNs have been submitted on time, complete, and in the proper form. If it is determined that an employee did not file his or her SALN, or that the SALN has not been properly accomplished or has incomplete data, the head of office or compliance committee should inform the employee concerned and require him or her to file, correct, or supply the essential information, and make the necessary corrections.

In the case of *Atty. Navarro v. Office of the Ombudsman*,⁴⁴ where Navarro claimed that (1) he filled out and accomplished the annual SALN in accordance with the prescribed format by the Civil Service Commission, the details of which to the best of his knowledge and belief, were generally accepted in the government service and were in substantial compliance with the provisions of the law, and (2) he was never informed by the applicable office of any incompleteness or any impropriety in the accomplishment of his SALNs, we emphasized the importance of informing the public official or employee of any defect in his SALN and to take the necessary corrective action before being held administratively liable, in accordance with the review and compliance procedure under R.A. No. 6713 and its IRR.

The review and compliance procedure serves as a mechanism that affords the public official or employee a final opportunity to comply with the requirements before any sanction is meted out. It seeks a fuller and more accurate disclosure of the necessary information. While the SALN is an instrument that ensures accountability, the review and compliance procedure works as a buffer that prevents the haphazard filing of actions against public officials and employees.⁴⁵

Here, Salig's failure to correct entries, supply missing information, or give proper attention to the filling out of his SALNs, without first calling his

⁴³ *Carabeo v. Court of Appeals*, 622 Phil. 413, 428 (2009); *Carabeo v. Sandiganbayan*, 659 Phil. 40, 46 (2011).

⁴⁴ 793 Phil. 453 (2016).

⁴⁵ Concurring Opinion of Associate Justice Marvic Mario Victor F. Leonen in *Abid-Babano v. Executive Secretary*, G.R. No. 201176, August 28, 2019.

attention on the matter, could not be considered as indicative of untruthful declaration of assets, absent any concrete proof. The appropriate office or committee should have given Salig the opportunity to correct the entries in his SALNs to conform to the prescribed requirements at that time. Section 10 of R.A. No. 6713 and its IRR are clear that in the event the authorities determine that a statement is not properly filed, they shall inform the reporting individual and direct him or her to take the necessary corrective action.

Thus, We disagree with the CA in finding Salig guilty of Simple Negligence and imposing on him the penalty of suspension for six months without pay.

Negligence is the omission of the diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time and of the place. In the case of public officials, there is negligence when there is a breach of duty or failure to perform the obligation.⁴⁶

Here, Salig was not given a chance to correct or fully explain the entries in his SALNs. His failure to give a detailed explanation or supply missing information could have been prevented if he were properly apprised by the head of office or appropriate committee. Nevertheless, Salig was able to successfully prove that he did not possess any unexplained wealth and had properly accounted for them just like in the case of *Navarro*. Thus, without any malice or wrongful intent, administrative liability cannot attach.

While the Court is mindful of the duty of public officials and employees to fully disclose their wealth in the SALN as a means to maintain transparency and a standard of honesty in the public service, such public officials and employees should also be given the opportunity to explain and take corrective action of any *prima facie* appearance of discrepancy in their SALN. Where the acquisition of unexplained wealth can be properly accounted for, then such assets cannot be considered as illegally acquired or accumulated.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 23, 2014 and the Resolution dated November 17, 2014 of the Court of Appeals in CA-G.R. SP No. 130515 are **REVERSED** and **SET ASIDE**. The administrative charges against respondent Hurley D. Salig are **DISMISSED** without pronouncement on costs of suit.


⁴⁶ Supra note 44, at 475-476.

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson

(On Official Leave)
RAMON PAUL L. HERNANDO
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

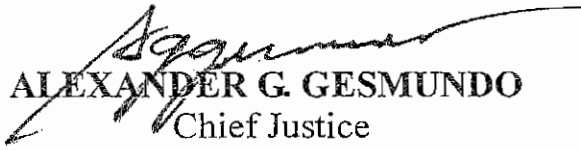
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.



ALEXANDER G. GESMUNDO
Chief Justice