

Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

OFFICE OF THE OMBUDSMAN, **G.R. No. 238903**
 Petitioner,

Present:

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, *JJ.*

- versus -

Promulgated:

EMELITA MARAASIN BRAÑA,
 Respondent.

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DECISION

PERALTA, C.J.:

This is a Petition for Review on *Certiorari* seeking to reverse and set aside the Decision¹ dated July 19, 2017 and the Resolution² dated March 9, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 07575-MIN. The CA reversed and set aside the Decision dated January 27, 2016 and the Order dated May 5, 2016 of the Office of the Ombudsman (*petitioner*) in OMB-C-A-15-0090.

The factual antecedents are as follows:

On March 26, 2015, the Department of Finance–Revenue Integrity Protection Service (*DOF-RIPS*) filed a Joint Complaint-Affidavit³ charging

¹ Penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Edgardo T. Lloren and Oscar V. Badelles, concurring; *rollo*, pp. 75-115.

² Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Oscar V. Badelles and Ruben Reynaldo G. Roxas, concurring; *id.* at 117-121.

³ *Rollo*, pp. 122-154.

Emelita Maraasin Braña (*respondent*) with violation of Sections 7 and 8 of Republic Act (R.A.) No. 3019 and Section 8 of R.A. No. 6713, Articles 171(4) and 183 of the Revised Penal Code (RPC), Grave Misconduct, and Serious Dishonesty.

The DOF-RIPS alleged that respondent acquired illegal wealth amounting to ₱8,708,025.98 from the year 2001 to 2013, which were disproportionate to her and her husband's lawful income. The amount was determined after DOF-RIPS found irregularities in respondent's Statement of Assets, Liabilities, and Net Worth (SALN) in which respondent failed to disclose several real and personal properties, and made misleading and inconsistent declarations.

According to the DOF-RIPS, respondent failed to disclose the following real and personal properties in her SALNs:

1. A 142-square-meter parcel of land in La Buena Vida Subdivision acquired in September 2008 for ₱299,000.00 which was not disclosed in respondent's 2008 to 2013 SALNs;
2. The construction of a one-storey structure costing ₱995,401.33 where respondent's Monterey Meat Shop and Hungry Juan Roast Chicken businesses are located. The cost of improvements was never declared in the 2010 to 2013 SALNs;
3. 2007 Isuzu Crosswind worth ₱1,278,120.00 and was not declared in respondent's 2008 SALN;
4. One (1) pistol Armscor, caliber .45 with Serial No. 767669 and covered by a license approved on June 25, 2013;
5. Investments in Monterey Meat Shop and Hungry Juan Roast Chicken were not declared in respondent's 2010 to 2013 SALNs; and
6. Business interest in Four B's Marketing registered on December 2, 2009 in connection with respondent's meat shop business in her SALN for 2009.⁴

The following, on the other hand, were misleading and inconsistent declarations in her SALNs:

1. Ownership of a residential lot in Golden Glow Village located in Carmen, Pueblo, Cagayan de Oro City which was acquired for ₱600,000.00 and declared in respondent's 2007 to 2013 SALNs. Verification on the property revealed that respondent owns two (2) lots in said village covered by a single Deed of Sale dated 2 September 2001 in the purported total amount of ₱400,000.00; and
2. Respondent's practice of lumping her personal and other properties with entries like "Cash & Receivable," "Jewelries, Clothing & etc.," "Appliances and Kitchenware," "Furniture, Fixture, book and etc." for the 2000 SALN. In respondent's 2001 to 2007 and 2009 to 2013

⁴ *Id.* at 46.

SALNs, she consistently lumped under her personal and other properties, the following entries, "Cash & Receivable," "Jewelries, Clothing & etc.," "Appliances/Kitchenware/Computer," and "Furniture, Fixture, books & etc." The same scheme was also used by respondent in her declaration of liabilities in her 2001 to 2007 and 2009 to 2013 SALNs, which makes it difficult to ascertain if there is an increase in respondent's declaration.⁵

Respondent raised the following defenses:

1. A Deed of Assignment dated July 21, 2003 [was] executed in favor of a certain Ferdinand T. Suan for the lot in La Buena Vida Subdivision. Thus, the issuance of title under her name covering said property was inadvertently issued.
2. The construction cost of the one-storey building in the amount of ₱995,401.33 where the Monterey Meat Shop and Hungry Juan Roast Chicken are located was declared in the 2010 SALN under "hauling and other equipment used in business."
3. The Isuzu Crosswind was declared in her 2007 SALN as "service car."
4. The pistol owned by her husband is a government-issued firearm, he being a former member of the AFP and current confidential agent of the National Bureau of Investigation; thus, it need not be disclosed in her SALN.
5. No franchise fees were paid for the Monterey Meat Shop and Hungry Juan Investments.⁶

On January 27, 2016, petitioner rendered a Decision⁷ against respondent. Petitioner dismissed the charge of unexplained wealth for insufficiency of evidence, but found respondent administratively liable for serious dishonesty, and ordered her dismissal from the service with all its accessory penalties, the dispositive portion of which reads:

WHEREFORE, finding substantial evidence against respondent Emelita Maraasin Braña for the administrative offense of Serious Dishonesty, she is hereby meted the penalty of **DIMISSAL FROM THE SERVICE**, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations.

The charge for Grave Misconduct is **DISMISSED**.

In the event that the penalty of Dismissal can no longer be enforced due to respondent's separation from service, that same shall be converted into Fine in the amount equivalent to respondent's salary for one (1) year, payable to the Office of the Ombudsman, and may be deductible from respondent's retirement benefits, accrued leave credits, or any receivable from her office.

⁵ *Id.* at 47-48.

⁶ *Id.* at 55.

⁷ Penned by Karla Maria F. Barrios, Graft Investigation and Prosecution Officer II; *id.* at 40-64.

It shall be understood that the accessory penalties attached to the principal penalty of Dismissal shall continue to be imposed.

Pursuant to Section 7, Administrative Order No. 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, Series of 2006, the Honorable Secretary of the Department of Finance, is directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number: **OMB-C-A-15-0900**, to this Office, thru the Central Records Division, 2nd Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128, Quezon City.

Compliance is respectfully enjoined consistent with Section 15(3) of RA No. 6770 (Ombudsman Act of 1989).

SO ORDERED.⁸

Respondent, thereafter, filed several pleadings assailing the Decision of the petitioner.

Respondent initially filed a Motion for Reconsideration⁹ of the Decision on April 19, 2016 on grounds of errors of facts or law that are prejudicial to her interest.

Several days thereafter, or on May 5, 2016, respondent filed a Petition for Injunction (with Urgent Application for Issuance of Temporary Restraining Order [TRO] or *Status Quo Ante* Order and/or Writ of Preliminary Injunction [WPI])¹⁰ which sought to enjoin the petitioner from implementing the Decision. On April 28, 2016, the CA issued a Resolution¹¹ denying the Petition for Injunction by reason of lack of jurisdiction. Undeterred, respondent filed a Petition for *Certiorari* (with Urgent Application for Issuance of TRO or *Status Quo Ante* Order and/or WPI) under Rule 65,¹² docketed as CA-G.R. SP No. 07429-MIN, assailing the implementation of the January 27, 2016 Decision, while her Motion for Reconsideration was pending resolution.

On May 18, 2016, the CA, in a Resolution,¹³ granted the prayer for the issuance of TRO and, on July 19, 2016, granted the issuance of a WPI.

In the meantime, on May 5, 2016, the petitioner issued an Order dismissing the Motion for Reconsideration. Then, on July 25, 2016, respondent filed a Petition for Review under Rule 43 before the CA, assailing the said Order. This petition was docketed as CA-G.R. SP No. 07575-MIN.

⁸ *Id.* at 63-64.

⁹ *Id.* at 196-210.

¹⁰ *Id.* at 211-221.

¹¹ *Id.* at 220-221.

¹² *Id.* at 225-255.

¹³ *Id.* at 265-266.

On August 31, 2016, the CA issued a Resolution consolidating CA-G.R. SP No. 07429-MIN and CA-G.R. SP No. 07575-MIN, after finding that both assailed the January 27, 2016 Decision of the petitioner. Here, the CA dismissed her Petition for Certiorari for being moot and academic.¹⁴

On July 19, 2017, the CA rendered its Decision,¹⁵ the dispositive portion of which read:

WHEREFORE, the Petition for *Certiorari* in CA-G.R. SP No. 07429-MIN is hereby DISMISSED for being moot and academic. On the other hand, the Petition for Review under CA-G.R. SP No. 07575-MIN is hereby GRANTED. The Decision dated 27 January 2016 and the Order dated 5 May 2016 issued by the Office of the Ombudsman are hereby REVERSED. The charge of Serious Dishonesty against the [respondent] is hereby DISMISSED for insufficiency of evidence.

SO ORDERED.¹⁶

In dismissing the complaint for serious dishonesty, the CA upheld respondent's defense of good faith. It applied *Navarro v. Ombudsman*¹⁷ and ruled that respondent submitted plausible explanations for the alleged discrepancies in her SALNs, and that she should have been given an opportunity to correct the identifiable errors. With these, the CA maintained that petitioner failed to submit substantial evidence that could have proven respondent's intent to deceive the government, thus the charge for serious dishonesty must fail.

The petitioner filed a Motion for Reconsideration, but the same was denied in a Resolution¹⁸ dated March 9, 2018.

Hence, the instant petition.

The petitioner raised the following issues:

I.

RESPONDENT'S ACT OF FILING THREE SUCCESSIVE PETITIONS WITH THE COURT OF APPEALS VIOLATED THE RULE AGAINST FORUM SHOPPING. HENCE, THE COURT OF APPEALS GRAVELY ERRED WHEN IT DID NOT DISMISS RESPONDENT'S PETITION FOR REVIEW.

¹⁴ *Id.* at 120.

¹⁵ *Id.* at 75-115.

¹⁶ *Id.* at 114.

¹⁷ 793 Phil. 453 (2016).

¹⁸ *Rollo*, pp. 117-121.



II.

AT ALL EVENTS, THE COURT OF APPEALS SERIOUSLY ERRED IN EXONERATING RESPONDENT FROM HER ADMINISTRATIVE LIABILITY WHICH WAS CLEARLY SUPPORTED BY SUBSTANTIAL EVIDENCE.

The petition is without merit.

The Court notes that these issues are mere reiterations of those raised before the CA. As a general rule, only questions of law may be raised in a petition for review on *certiorari* because the Court is not a trier of facts.¹⁹ The findings of fact of the petitioner, however, differ from those of the CA; thus, the Court finds it necessary to take a second look at the factual matters surrounding the present case.²⁰

At the onset, the Court upholds the finding of the CA that respondent did not violate the rule against forum shopping.

Forum shopping is the act of a litigant who repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues, either pending in or already resolved adversely by some other court, to increase his chances of obtaining a favorable decision if not in one court, then in another.²¹

The test for determining the existence of forum shopping is whether a final judgment in one case amounts to *res judicata* in another or whether the following elements of *litis pendentia* are present: (a) identity of parties, or at least such parties as representing the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.²²

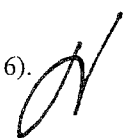
The circumstances in the filing of the pleadings negate forum shopping. Respondent, in filing the Petition for *Certiorari*, sought to prevent the implementation of the assailed Decision of the petitioner pending resolution of her Motion for Reconsideration. The Petition for Review, on the other hand, is an appeal on the assailed Order of the petitioner which dismissed the Motion for Reconsideration.

¹⁹ *Office of the Ombudsman v. Racho*, 656 Phil. 148, 157 (2011).

²⁰ *Id.* at 158.

²¹ *Grace Park International Corporation v. Eastwest Banking Corporation*, 791 Phil. 570, 577 (2016).

²² *Fontana Development Corp. v. Vukasinovic*, 795 Phil. 913, 921 (2016).



The reliefs sought for in the pleadings are dissimilar such that the judgment in one of the petitions is not a claim preclusion to the other. Furthermore, the CA, upon consolidation of the petitions, dismissed the Petition for *Certiorari* for being moot and academic; thus, negating the existence of forum shopping.

As for the next issue, the pivotal question in this case is whether or not respondent may be held administratively liable for the alleged irregularities in her SALNs for the year 2007-2013.

Petitioner argues that respondent committed serious dishonesty through repeated infractions in filling up her SALNs, which taken from DOF-RIPS, is summarized in the table below:

Year	Property and manner of infraction
2007 SALN	Two lots in Golden Glow Village that were lumped together as one lot Lumped personal properties
2008 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared newly purchased Isuzu Crosswind
2009 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared business interest in Four B's Marketing (Monterey Meat Shop and Hungry Juan Roast Chicken) Lumped personal properties
2010 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared one-storey improvement which housed Monterey Meat Shop and Hungry Juan Roast Chicken
2011 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared one-storey improvement which housed Monterey Meat Shop and Hungry Juan Roast Chicken
2012 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared one-storey improvement which housed Monterey Meat Shop and Hungry Juan Roast Chicken
2013 SALN	Two lots in Golden Glow Village that were lumped together as one lot Undeclared La Buena Vida lot Undeclared one-storey improvement which housed Monterey Meat Shop and Hungry Juan Roast Chicken Undeclared firearm Lumped personal properties

Of the above findings, the petitioner only proceeded with its inquisition on the two lots in Golden Glow Village, the Isuzu Crosswind, the La Buena Vida Lot, the business interest and the one-story improvement. Respondent raised the following defenses:

1. The two lots in Golden Glow Village were lumped together as one lot because it was covered by one Deed of Absolute Sale;
2. The Isuzu Crosswind was declared a “equity on installment purchases” as respondent “was of the belief that the revised 2008 SALN Form required that personal properties paid in installment basis should be declared as “equity on installment purchases;”²³
3. The La Buena Vida lot was already transferred to a certain Ferdinand T. Suan as evidenced by a Deed of Assignment, which Deed of Assignment was inferred by petitioner as conclusive proof of ownership. Respondent also stated in her 2012 and 2013 SALNs that the certificate of title was only inadvertently transferred to her name.
4. The business interest in Four B’s Marketing was not declared in 2009 because respondent registered her business only in December 2009, and she merely obtained the “right to exclusively use the business name within six (6) months from registration and it does not mean that the business was already operational”;²⁴
5. The one-storey improvement was not owned by respondent and “she was only exercising an intangible right to use the same as the improvement would revert to the lessor of the lot upon termination of the lease.”²⁵

After a careful consideration of the records, the Court upholds the findings of the CA that respondent’s explanations on her assets were consistent with her defense of good faith.

The duty to submit a SALN can be found in R.A. No. 6713, or the *Code of Conduct and Ethical Standards for Public Officials and Employees*. Section 8 of R.A. No. 6713 mandates the submission of the sworn SALNs by all public officials and employees, stating therein all the assets, liabilities, net worth and financial and business interests of their spouses, and of their unmarried children under 18 years of age living in their households.²⁶

The purpose of the law on SALN disclosure is to suppress any questionable accumulation of wealth that usually results from the non-disclosure of such matters.²⁷ Thus, it should be understood that what the law

²³ *Id.* at 105.

²⁴ *Id.* at 106.

²⁵ *Id.* at 107.

²⁶ *Del Rosario v. People*, G.R. No. 199930, June 27, 2018.

²⁷ *Abid-Babano v. Executive Secretary*, G.R. No. 201176, August 28, 2019.

seeks to curtail is "*acquisition of unexplained wealth*." Where the source of the undisclosed wealth can be properly accounted, then it is "explained wealth" which the law does not penalize.²⁸

*Navarro vs. Ombudsman*²⁹ is at all fours with this case. As with *Navarro*, the charges against petitioner therein were also based on surmises and conjectures, and not supported by substantial evidence. Hence, the following pronouncement of the Court finds relevance in this case, thus:


The Court has once emphasized that a mere misdeclaration in the SALN does not automatically amount to dishonesty. Only when the accumulated wealth becomes manifestly disproportionate to the income or other sources of income of the public officer/employee and he fails to properly account or explain his other sources of income, does he become susceptible to dishonesty. Although there appeared to have a *prima facie* evidence giving rise to the presumption of accumulation of wealth disproportionate to his income, Navarro was able to overcome such presumption by coming out with documentary evidence to prove his financial capacity to make the subject acquisitions and to prove that the amounts he stated in his SALNs were true. It should be understood that the laws on SALN aim to curtail the acquisition of unexplained wealth. Where the source of the undisclosed wealth can be properly accounted for, then it is "explained wealth" which the law does not penalize.³⁰

Here, respondent unequivocally affirmed knowledge and ownership, save for the La Buena Vida lot, of the properties in question. The properties, albeit labeled erroneously, were, in fact, declared as assets which contradicts the intent to conceal.

Consistent with our ruling in *Navarro*, the Court finds that respondent should not be held administratively liable as the intent to commit a wrong is wanting on her part.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated May 25, 2018, of petitioner Office of the Ombudsman is **DENIED**. Consequently, the Decision dated July 19, 2017 and the Resolution dated March 9, 2018 of the Court of Appeals in CA-G.R. SP No. 07575-MIN are **AFFIRMED**.

SO ORDERED.

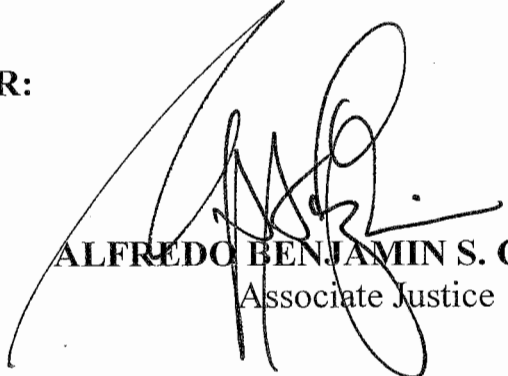

DIOSDADO M. PERALTA
Chief Justice

²⁸ *Office of the Ombudsman v. Racho*, *supra* note 15, at 161.

²⁹ *Supra* note 13.

³⁰ *Navarro v. Ombudsman*, *supra* note 13, at 475.

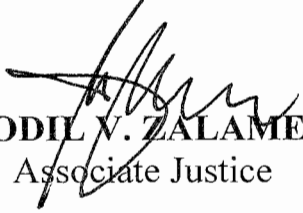
WE CONCUR:



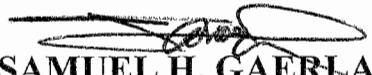
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ROSMARI D. CARANDANG
Associate Justice



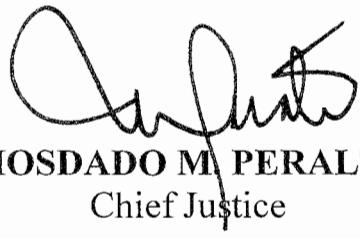
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to 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