

SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
 Supreme Court  
 Manila

**FIRST DIVISION**

**FLORENCIO TUMBOCON**  
**MIRAFLORES and MA.**  
**LOURDES MARTIN**  
**MIRAFLORES,**  
*Petitioners,*

**G.R. Nos. 238103 & 238223**

Present:

PERALTA, C.J., Chairperson,  
 CAGUIOA,  
 REYES, J., JR.  
 LAZARO-JAVIER, and  
 LOPEZ,\* JJ.

- versus -

**OFFICE OF THE**  
**OMBUDSMAN and FIELD**  
**INVESTIGATION OFFICE,**  
*Respondents.*

Promulgated:

**JAN 06 2020**

X-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This petition for certiorari<sup>1</sup> assails, on ground of grave abuse of discretion, the following dispositions of respondent Office of the Ombudsman (OMB) in OMB-V-C-15-0115, for violation of Section 7<sup>2</sup> of

\* On official leave.

<sup>1</sup> Filed under Rule 65, Rules of Court; Petition, *rollo* (Vol. I), pp. 7 – 104.

<sup>2</sup> 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

Republic Act 3019<sup>3</sup> (RA 3019), in relation to Section 8<sup>4</sup> of Republic Act 6713<sup>5</sup> (RA 6713); and OMB-V-F-15-0001, for forfeiture of unlawfully acquired properties under Republic Act 1379 (RA 1379), viz:

- a) *Joint Resolution*<sup>6</sup> dated August 12, 2016 finding probable cause against Spouses Florencio Tumbocon Miraflores (Florencio) and Maria Lourdes Martin Miraflores (Lourdes; collectively, petitioners) for nine (9) counts and three (3) counts, respectively, of violation of Section 7 of RA 3019 in relation to Section 8 of RA 6713 and for forfeiture of unlawfully acquired properties under RA 1379;<sup>7</sup> and
- b) *Joint Order*<sup>8</sup> dated October 2, 2017 affirming with modification such finding of probable cause but reducing on ground of prescription the counts of violation of Section 7 of RA 3019, in relation to Section 8 of RA 6713 against Florencio from nine (9) to four (4).

### The Proceedings before the OMB

The assailed OMB *Joint Resolution*<sup>9</sup> dated August 12, 2016 bears the parties' respective submissions, viz:

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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 statements in the following months of January.

<sup>3</sup> Anti-Graft and Corrupt Practices Act.

<sup>4</sup> 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:

- (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.


<sup>5</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>6</sup> *Rollo* (Vol. I), p. 129.

<sup>7</sup> An Act Declaring 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.

<sup>8</sup> *Rollo* (Vol. I), p. 140.

<sup>9</sup> *Id.* at 129.



**[FIELD INVESTIGATION OFFICE'S (FIO) CHARGES**

Complainant (respondent in this case) alleged that respondents (petitioners in this case) amassed wealth disproportionate to their legitimate incomes. It also alleged the following:

1. From the declarations in their 2001-2009 SALNs, the total change in respondent's net worth xxx amounted to **₱4,665,938.02**, while their estimated total compensation xxx income for the same years amounted to **₱4,920,519.00** where **₱3,799,170.00** is Florencio's estimated compensation, while **₱1,121,349.00** is the estimated compensation of Lourdes;
2. The computation of the real properties in their 2001 to 2009 SALNs xxx, shows that the *acquisition costs* were not consistently used as there were times that the *fair market value* of the properties [was] adopted/added; hence the actual value spent to acquire the properties were not declared. The inconsistencies therefor affected the actual [Net worth] of respondents, which upon *re-computation* xxx amounted to **₱10,237,518.02**, not ₱4,665,938.02;

xxxx

3. Using respondents' *recomputed* net worth of **₱10,237,518.02** less their known income of **₱4,920,519.00**, there is a *total unexplained wealth* of **₱5,316,999.02**. This amount, however, does not take into account the expenses incurred by respondents for their numerous travels abroad and other living expenses. The amount of unexplained wealth was taken from the acquisition costs of assets and liabilities declared in the 2001 to 2009 SALN;
4. Respondents either overvalued, undervalued or did not declare some of the properties *registered under their names*, such as: (a) the residential land (with improvement) located in Quezon City, which was acquired in 2000 and declared in the 2001 SALN with acquisition cost of only ₱242,620.00 and ₱50,000.00 for improvement. However, based on the annotations at the back of Transfer Certificate of Title (TCT) No. 210613 and Tax Declaration No. D-125-01482, the property costs [**₱1,500,000.00**]; (b) the Mitsubishi Pajero and Toyota Fortuner were undervalued by ₱90,200.00 and ₱118,000.00, respectively, while the Toyota Hi-Ace GL Grandia was overvalued by ₱45,000.00; and (c) the Isuzu Elf, Toyota Pick-up, Nissan Safari Wagon and Kawasaki Motorcycle with a total acquisition cost of **₱708,400.00**, were not declared;
5. Although Lourdes acquired shares of stocks from the Rural Bank of Ibajay, Inc. [(RBII)] in 1989, the value of said shares of stocks amounting to **₱6,497,200.00** was only declared in their 2008 and 2009 SALNs; and
6. The amounts of certain liabilities were either overstated or

still declared despite having been fully paid, such as the housing loan and multi-purpose loan (MPL) from Pag-I.B.I.G. Fund Iloilo Branch and the Ember Salary Loan from the Government Insurance System (GSIS).

### [SPOUSES MIRAFLORES'] CLAIMS

In denying the accusations against them, respondents asserted that the computation of their total income should be ₱12,132,519.00, an amount which is proportional to the alleged increase in their net worth of ₱10,237,518.02 from 2001 to 2009.

Respondents averred that in the computation of their incomes, complaint disregarded their incomes from their assets, i.e. fish ponds, farm and coconut lands, and financial interests in their rural banking business that were consistently declared in their SALNs. Also disregarded were the incomes of their adult children who started to earn in 2009 and other remunerations, including per diems, representation and transportation allowances (RATA) and other fees, all constitute their legitimate sources of funds and may cover the family expenses. Their loan of almost **₱20,000,000.00** was incurred to subsidize their living and enable them to acquire the properties added to their assets from 2001 to 2009.

Respondents also maintained that the alleged inconsistencies in the use of fair market value or acquisition cost in the computation of their assets arose from the difficulty in determining which reference value of the property should be used in declaring the same in their SALNs. The seeming conflict was also due to the confusion brought upon by the changes in the SALN form as prescribed by the Civil Service Commission in 2008 and 2009.

To show that they declared all their properties, respondents alleged that they included in their SALNs properties which they inherited but which are still undistributed and co-owned with the other heirs. The costs of some assets were also declared based on the amount stated in the deeds of sale and other costs incurred in acquiring such assets, such as loan interest, discount, accessories, insurance, etc., and the mode by which such assets were acquired, e.g. by loan.

Respondents further explained that they did not declare in their 2001 to 2009 SALNs the Nissan Safari Wagon, Mazda Pick-up (alleged in the complaint as Toyota Pick-up) and Kawasaki motorcycle all registered in their names, as they are already owned, used and given to persons who had served their family for many years. The sworn statements of Allen S. Quimpo (Quimpo), Efren Trinidad (Trinidad) and Antonio M. Pamisan (Pamisan) were submitted in support of their claim.

Additionally, to show that their accumulated wealth from 2001 to 2009 is not disproportionate to their sources of income/funds, respondents presented a computation of their net worth, income and liabilities from 2004 to 2013. Allegedly, while their SALNs did not provide every minute detail of information, they, however, provided all necessary data following *the detailed and complete* requirement of RA 6713. As the SALNs were prepared in good faith, the difficulty in determining their net worth and income should not operate to disregard the legal income from them.<sup>10</sup>

<sup>10</sup> *Id.* at 111-115.

The same Joint Resolution shows a summary of petitioners' Statements of Assets, Liabilities and Net worth (SALNs) for 2001 –2009,<sup>11</sup> viz:

**Table 1: Petitioners' SALNs for years 2001 – 2005**

ASSETS	2001	2002	2003	2004	2005
<b>Real Properties</b>					
Riceland in Regador, Ibajay, Aklan	₱1,100,000.00	₱1,200,000.00	₱1,300,000.00	₱1,300,000.00	₱1,300,000.00
Cocoland in Regador, Ibajay, Aklan	2,200,000.00	2,300,000.00	2,400,000.00	2,400,000.00	2,400,000.00 plus 10,000.00
Residential Lot in Poblacion Ibajay, Aklan	850,000.00	3,000,000.00	3,000,000.00	3,000,000.00	3,000,000.00 plus 2,000,000.00
Residential Lot in Quezon City	691,280.00	891,280.00	2,500,000.00	2,500,000.00	2,500,000.00
Fishpond in Capiz	5,000,000.00	5,000,000.00	5,500,000.00	5,500,000.00	5,500,000.00 plus 90,000.00
<b>Total</b>	<b>₱9,841,280.00</b> *Current Fair Market Value	<b>₱12,391,280.00</b> *Current Fair Market Value	<b>₱14,700,000.00</b> *Current Fair Market Value	<b>₱14,700,000.00</b> *Current Fair Market Value	<b>₱16,800,000.00</b> *Current Fair Market Value & Acquisition Cost
<b>Personal and other Properties</b>					
Pick-up (Mazda)	₱450,000.00	₱450,000.00	₱450,000.00	₱450,000.00	
Automobile	600,000.00	600,000.00	600,000.00	600,000.00	₱600,000.00
Jewelries	300,000.00	400,000.00	500,000.00	500,000.00	500,000.00
Books	50,000.00	55,000.00	60,000.00	60,000.00	60,000.00
Clothes/ Appliances	330,000.00	400,000.00	400,000.00	400,000.00	400,000.00
Bank Deposits/On Hand	600,000.00	700,000.00	900,000.00	900,000.00	500,000.00
Pajero Van	1,300,000.00	1,300,000.00	1,300,000.00	1,300,000.00	1,300,000.00
Pick-up (Nissan)					900,000.00
Automobile (Mazda)					780,000.00
<b>Total</b>	<b>₱3,630,000.00</b>	<b>₱3,905,000.00</b>	<b>₱4,210,000.00</b>	<b>₱4,210,000.00</b>	<b>₱5,040,000.00</b>
<b>TOTAL ASSETS</b>	<b>₱13,471,280.00</b>	<b>₱16,296,280.00</b>	<b>₱18,910,000.00</b>	<b>₱18,910,000.00</b>	<b>₱21,840,000.00</b>

<sup>11</sup> See *Rollo* (Vol. I), pp. 379-399 and *Rollo* (Vol. II), pp. 638-652.

LIABILITIES	2001	2002	2003	2004	2005
Housing Loan (Pag-ibig)	₱1,050,754.02	₱900,000.00	₱700,000.00	₱700,000.00	₱560,000.00
Housing Loan (BPI)	2,200,000.00	2,000,000.00 (Equitable Bank)	1,650,000.00	1,650,000.00	1,820,759.59
Car Loan	600,000.00	300,000.00	200,000.00	200,000.00	314,628.00 (Mazda)
GSIS (Salary and Policy)	170,000.00	120,000.00	80,000.00	80,000.00	80,000.00
Private Loans	1,300,000.00	1,000,000.00	2,100,000.00	2,100,000.00	5,000,00.00
Multi-purpose Loan (Pag-ibig)			45,000.00	45,000.00	45,000.00
<b>TOTAL LIABILITIES</b>	<b>₱4,260,754.02</b>	<b>₱4,320,000.00</b>	<b>₱4,775,000.00</b>	<b>₱4,775,000.00</b>	<b>₱7,820,387.59</b>
<b>NETWORTH</b>	<b>₱8,850,525.98</b>	<b>₱11,976,280.00</b>	<b>₱14,135,000.00</b>	<b>₱14,135,000.00</b>	<b>₱14,019,612.41<sup>12</sup></b>

**Table 2: Petitioners' SALNs for years 2006 – 2009**

ASSETS	2006	2007	2008	2009
<b>Real Properties</b>				
Riceland in Regador, Ibaday, Aklan	₱1,600,000.00	₱1,600,000.00	₱1,600,000.00	₱1,600,000.00
Cocoland in Regador, Ibaday, Aklan	2,700,000.00 plus 300,000.00	3,000,000.00	2,700,000.00	2,700,000.00
Residential Lot in Poblacion Ibaday, Aklan	3,500,000.00 plus 2,000,000.00 plus 500,000.00	6,000,000.00	3,500,000.00	3,500,000.00
Residential Lot in Quezon City	5,000,000.00 plus 4,500,000.00 plus 300,000.00	5,300,000.00	5,000,000.00 plus 4,800,000.00	5,000,000.00 plus 4,800,000.00
Fishpond in Capiz	7,200,000.00 plus 150,000.00	7,350,000.00	7,200,000.00	7,200,000.00
Residential Property in Quezon City			9,000,000.00	9,000,000.00
Total	₱27,750,000.00 *Current Fair Market Value & Acquisition Cost	₱23,250,000.00 *Current Fair Market Value		₱13,800,000.00 *Acquisition Cost
<b>Personal and other Properties</b>				
Automobile	600,000.00	600,000.00		
Stocks (equity paid)			6,497,200.00	6,497,200.00
Deposits/advanced payments on rentals			180,000.00	180,000.00
Furniture, antiques			600,000.00	600,000.00
Jewelry	870,000.00	700,000.00	990,000.00	990,000.00
Books	60,000.00	60,000.00		
Clothes/Appliances	500,000.00	500,000.00		
Bank Deposits/On Hand	550,000.00	550,000.00	770,000.00	770,000.00

<sup>12</sup> Rollo (Vol. I), pp. 119-120.

Pajero Van	1,300,000.00	1,300,000.00		
Pick-up (Nissan)	900,000.00	900,000.00	900,000.00	900,000.00
Automobile (Mazda)	780,000.00	780,000.00		
Toyota Fortuner Plate No. ZDE457	1,250,000.00	1,250,000.00	1,250,000.00	1,250,000.00
Toyota Hi Ace Grandia Plate No. ZLZ439		1,465,000.00	1,465,000.00	1,465,000.00
Mitsubishi Pajero Van Plate No. WHN 852			1,300,000.00	1,300,000.00
Mazda Plate No. ZAB 675			780,000.00	780,000.00
Honda Civic Plate No. UHG 842			600,000.00	600,000.00
Mitsubishi Pajero Plate No. ZNZ 924			2,608,000.00	2,608,000.00
Others			60,000.00	60,000.00
<b>Total</b>	<b>₱6,640,000.00</b>	<b>₱8,275,000.00</b>		<b>₱18,540,200.00</b>
<b>TOTAL ASSETS</b>	<b>₱34,390,000.00</b>	<b>₱31,525,000.00</b>	<b>₱31,800,200.00</b>	<b>₱32,340,200.00</b>
<b>LIABILITIES</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Housing Loan (Pag-ibig)	560,000.00			
Housing Loan	1,820,759.59	3,000,000.00 (BPI)		2,817,624.00 (BPI)
Personal Loan			8,000,000.00	4,000,000.00
Bank Loans			4,283,736.00	
Car Loan (Mazda)	314,628.00	314,628.00		
GSIS Loan (Salary and Policy)	45,000.00	45,000.00		
Private Loans	6,000,000.00	8,000,000.00		
Multi-purpose Loan (Pag-ibig)	45,000.00	45,000.00		
Car Loan (Hi-Ace)		879,000.00		
RCBC Grandia Car Loan				483,744.00
RCBC Pajero Car Loan				982,368.00
UCPB Housing Loan				10,000,000.00
<b>TOTAL LIABILITIES</b>	<b>₱8,785,387.59</b>	<b>₱12,283,628.00</b>	<b>₱12,283,736.00</b>	<b>₱18,283,736.00</b>
<b>NETWORTH</b>	<b>₱25,604,612.41</b>	<b>₱19,241,372.00</b>	<b>₱19,516,464.00</b>	<b>₱14,056,464.00<sup>13</sup></b>

It also contains a summary of FIO's computation<sup>14</sup> of petitioners' net worth, viz:

Year	Networth	Change in Networth	Known Income	Explained/Unexplained Wealth
2001	-₱288,134.02	0.00	₱402,578.00	-₱ 402, 578.00
2002	1,595,000.00	1,883,134.02	446,063.00	1,437,071.02
2003	1,834,000.00	239,000.00	438,163.00	-199,163.00
2004	1,534,000.00	-300,000.00	412,366.00	-712,366.00
2005	-723, 267.59	-2,257,267.59	420,000.00	-2,677,267.59
2006	5,679,732.41	6,403,000.00	420,000.00	5,983,000.00

<sup>13</sup> *Id.* at 120-121.

<sup>14</sup> *Rollo* (Vol. I), pp. 347 – 364.

2007	3,771,492.00	-1,908,240.41	636,277.00	-2,544,517.41
2008	6,999,384.00	3,227,892.00	862,936.00	2,364,956.00
2009	9,949,384.00	2,950,000.00	882,136.00	2,067,864.00
<b>Total</b>		<b>₱10,237,518.02</b>	<b>₱4,920,519.00</b>	<b>₱5,316,999.02<sup>15</sup></b>

Too, the Joint Resolution bears the OMB's finding of probable cause against petitioners for violation of RA 3019<sup>16</sup> in relation to RA 6713,<sup>17</sup> and for forfeiture of unlawfully acquired properties.<sup>18</sup> The OMB held in the main:

1. By declaring amounts higher or lower than the actual costs (Acquisition Costs) of their real and personal properties, petitioners violated the rule on submission of complete and accurate SALNs.
2. As for the undeclared motor vehicles, petitioners admitted having bought the same, albeit they conveniently claimed that they had given these motor vehicles to their long-time employees as accommodation or reward. This is at best self-serving.
3. Regarding Lourdes' RBII shareholdings, she held ownership thereof since 1989 and yet she failed to declare their value in her very first 2007 SALN. She indicated it only in her subsequent 2008 SALN.
4. The alleged source for the purchase of petitioners' family home in Quezon City appeared to be dubious i.e. HSBC remittances from Florencio's siblings. No documents were presented to prove Florencio's relationship with the supposed sponsors and the latter's financial capacity.
5. The increase in petitioners' net worth was not supported by their reported incomes/compensations.

In their subsequent motion for reconsideration, petitioners basically averred:

**FIRST.** The OMB adopted FIO's so-called erroneous and inaccurate re-computation. Petitioners' right to be informed of the charges against them was thereby violated.

**SECOND.** Whatever criminal liability corresponded to their SALNs for 2001-2009 had already prescribed.

**THIRD.** They did not acquire any property grossly disproportionate to their salaries. They had in fact conclusively shown that the increase in their net worth may be attributed to their incomes or earnings for the periods these properties were acquired.

<sup>15</sup> *Id.* at 352 and 112.

<sup>16</sup> Anti-Graft and Corrupt Practices Act.

<sup>17</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>18</sup> RA 1379.



**FOURTH.** There was no allegation or proof that the entries in their SALNs were intended to mislead or deceive.

**FIFTH.** They had a valid justification for not disclosing or for otherwise misdeclaring some assets in their SALNs.

**SIXTH.** The FIO's mechanical "net-worth-to-income-discrepancy" analysis, standing alone, cannot support the finding of probable cause against them.

Pending resolution of their motion for reconsideration, petitioners filed a *Manifestation* dated December 5, 2017 calling attention to the *Decision*<sup>19</sup> dated November 17, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 149592. In that case, they were **cleared of any administrative liability** for serious dishonesty or grave misconduct in relation to the same 2001-2009 SALNs subject of the criminal cases.

By *Joint Order*<sup>20</sup> dated October 2, 2017, the OMB affirmed with modification. It reduced on ground of prescription, the counts of violation of Section 8 of RA 3019, in relation to RA 6713 against Florencio from nine to four.

### THE PRESENT PETITION

Petitioners now seek to nullify the OMB's Joint Resolution dated August 12, 2016 and Joint Order dated October 2, 2017. **They assert:**

The OMB committed grave abuse of discretion when it adopted as bases of finding probable cause the FIO's erroneous and unsubstantiated computation of their net worth, thus, violating their right to be informed of the charges against them.

OMB committed grave abuse of discretion when it failed to accord due recognition to the Court of Appeals' Decision dated November 17, 2017 in CA-G.R. SP No.149592 clearing them of any administrative liability pertaining to the same SALNs subject of the present case.

The OMB committed grave abuse of discretion when it resolved the cases only after eight (8) long years since the investigation commenced in 2010, thus, violating their right to speedy disposition of the cases against them.

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<sup>19</sup> *Rollo* (Vol. II), pp. 753 - 777.

<sup>20</sup> *Rollo* (Vol. I), pp. 132 - 141.

**In its *Comment*,<sup>21</sup> the OMB counters:**

The *Complaint*<sup>22</sup> clearly charged petitioners with violation of Section 8 of RA 3019, in relation to RA 6713 pertaining to their own SALNs on record, hence, they could not have been deprived of their right to be informed of the charges against them.

The FIO's computation was based on the acquisition costs of petitioners' assets, liabilities, and net worth indicated in their own SALNs.

Its finding of probable cause was based on petitioners' incomplete SALNs and the various inconsistencies found therein.

Since petitioners themselves admitted having purchased and registered subject motor vehicles in their names, they may not deny ownership thereof. The letters<sup>23</sup> acknowledging receipt by the supposed persons in whose favor petitioners had allegedly conveyed these motor vehicles as a reward for their loyal service to petitioners' family are self-serving, nay, replete with inconsistencies.

Lourdes cannot disclaim liability for her failure to declare the acquisition cost of her RBII shareholdings in her 2007 SALN. Her bare allegation that RBII had a negative book value is devoid of merit. Petitioners themselves had previously admitted that as condition to acquiring these shareholdings they had to assume the liabilities of the Garcia family to RBII. This simply goes to show that the RBII shareholdings bore a substantial value and were onerously acquired.

### ISSUES

1. Did the OMB gravely abuse its discretion when it found probable cause against petitioners for violation of Section 8 of RA 3019, in relation to Section 7 of RA 6713 and for forfeiture of unlawfully acquired properties under RA 1379?
2. Did the OMB violate petitioners' right to be sufficiently informed of the charges against them?
3. Did the OMB violate petitioners' right to speedy disposition of the cases which allegedly got resolved only eight years after their investigation commenced?

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<sup>21</sup> *Rollo* (Vol. II), pp. 804 - 823.

<sup>22</sup> *Rollo* (Vol. I), pp. 347 - 364.

<sup>23</sup> *Id.* at 281-283.

4. Does the ruling of the Court of Appeals in CA-G.R. SP No. 149592 affect the present criminal complaints against petitioners?

### RULING

In finding probable cause against petitioners for violation of Section 7 of RA 3019,<sup>24</sup> in relation to Section 8 of RA 6713<sup>25</sup> and for forfeiture of unlawfully acquired properties under RA 1379, the OMB made an exhaustive discussion of their alleged undervalued, overvalued, and undeclared properties based on their SALNs for 2001-2009; the Certifications obtained from the Provincial Accountant of Aklan,<sup>26</sup> Accounting Service of the House of Representatives,<sup>27</sup> Pag-I.B.I.G Fund<sup>28</sup> and GSIS;<sup>29</sup> and petitioners' affirmative defenses as pleaded in their Joint Counter-Affidavit,<sup>30</sup> Joint Position Paper<sup>31</sup> and Motion for Reconsideration,<sup>32</sup> including their two-inch thick documentary attachments.

After the evaluation process, the OMB came out with its finding of probable cause that petitioners either undervalued, overvalued, or failed to declare certain properties in their SALNs for 2001 – 2009. These properties included several motor vehicles, RBII shares of stock worth ₱6,160,000.00, loans, and additional incomes and earnings.

#### **We affirm the OMB's finding of probable cause. Consider:**

**ONE.** Petitioners have not denied that they did fail to declare in their SALNs for 2001 – 2009 the following motor vehicles i.e. Isuzu Elf, Nissan Safari Wagon, Mazda Pick Up and Kawasaki motorcycle.<sup>33</sup> They in fact admitted having purchased these vehicles in their own name and using their own money. They claim, however, that they no longer own these vehicles because they already conveyed them *gratis et amore* to their valued employees as reward for their long years of loyal service to their family. In this regard, petitioners submitted to the OMB the letters<sup>34</sup> acknowledging receipt of the vehicles by these alleged beneficiaries.

We agree with the OMB that these documents, as worded, do not alter the fact that it was petitioners themselves who bought the vehicles in their own name and with their own funds. They have not even shown that these

<sup>24</sup> Anti-Graft and Corrupt Practices Act.

<sup>25</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>26</sup> *Rollo* (Vol. I), pp. 448 – 449.

<sup>27</sup> *Id.* at 451.

<sup>28</sup> *Id.* at 600 – 607.

<sup>29</sup> *Id.* at 608 – 612.

<sup>30</sup> *Rollo* (Vol. II), pp. 617 – 633.

<sup>31</sup> *Id.* at 670 – 687.

<sup>32</sup> *Rollo* (Vol. I), pp. 143 – 202.

<sup>33</sup> *Id.* at 124-125.

<sup>34</sup> *Id.* at 281-283.

vehicles are no longer registered in their names after they allegedly conveyed them in favor of the so-called “beneficiaries”. Consequently, there is merit to the finding of the OMB that these affidavits, standing alone, do not negate, nay, justify petitioners’ failure to declare them in their SALNs for 2001 – 2009. At any rate, whether these affidavits reflect the truth is a question of fact which the Court, not being a trier of facts, cannot take cognizance of.

**TWO.** Under Section 7 of RA 3019, every public officer is directed to file a true, detailed, and sworn statement of assets and liabilities, including among others, a statement of the **amounts and sources of his or her income and/or earnings**.

Petitioners assert that aside from the salaries and allowances they received as government elective officials, they derived other incomes and/or earnings from the fishponds, farm and coconut lots, and rural banking business<sup>35</sup> they own. The record speaks for itself. Petitioners’ SALNs for 2001 – 2009 are totally devoid of any single entry supposedly representing additional income or earnings derived from petitioners’ aforesaid assets. Surely, this omission, by itself is a violation of Section 7 of RA 3019, in relation to Section 8 of RA 6713.

**THREE.** Petitioners vigorously profess that the properties they had acquired over the years were either financed from their salaries or from loans obtained from Pag-I.B.I.G. Fund (i.e., housing loan<sup>36</sup> and Multi-Purpose Loan<sup>37</sup>) and GSIS (i.e., Ember Salary Loan<sup>38</sup>). But per Certifications, respectively, issued by Pag-I.B.I.G. Fund<sup>39</sup> and GSIS,<sup>40</sup> the loan amounts declared in petitioners’ SALNs were either bloated or repeatedly entered therein as loans, albeit they had been fully paid long ago. The Court keenly notes that petitioners have conspicuously failed to refute these damaging findings of the OMB.

**FOUR.** Regarding the RBII shareholdings of Lourdes, she claims to have acquired the same in 1989. When she joined the government in 2007, however, she did not include the value of these shareholdings in her initial SALN. She began declaring it only in her 2008 SALN where she declared that the asset had a value of Php 6,497,200.00.

Lourdes seeks to clarify though that she actually had no value to declare back in 2007 because RBII was then of negative book value. She asserts that the Bangko Sentral ng Pilipinas (BSP) even directed RBII to infuse additional capital to save it from receivership. The best evidence to prove this point are the financial reports submitted by RBII to the BSP and the latter’s written directive for RBII’s infusion of additional capital. Lourdes

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<sup>35</sup> *Id.* at 114.

<sup>36</sup> *Rollo* (Vol. I), p.358.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 359.

<sup>39</sup> *Id.* at 600 – 607.

<sup>40</sup> *Id.* at 608 – 612.



could have easily obtained these certifications from the files of RBII itself, but she did not. What she submitted instead were supposed independent Audited Financial Statements,<sup>41</sup> General Information Sheet<sup>42</sup> (GIS) and Accountant's Report<sup>43</sup> on RBII. Whether these documents are sufficient to excuse Lourdes from reporting the actual value of her RBII shareholdings in her 2007 SALN is again a question of fact which the Court still cannot take cognizance of.

For purposes of filing a criminal information, probable cause pertains to facts and circumstances sufficient to create a well-founded belief that a crime has been committed and the accused is probably guilty thereof.<sup>44</sup> As such, a finding of probable cause does not require an inquiry on whether there is sufficient evidence to secure a conviction. The presence or absence of the elements of the crime is evidentiary in nature and a matter of defense which may be passed upon only after a full-blown trial on the merits. In sum, whether a party's defense or accusation is valid and meritorious and whether the evidence presented are admissible fall beyond the process of determining probable cause. They are for the trial court to completely determine through a full-blown trial on the merits.<sup>45</sup>

**FIVE.** On petitioners' right to be sufficiently informed of the charges against them, the record once more speaks for itself. Petitioners had not once, but twice responded to FIO's charges through their sixteen-page Joint Counter-Affidavit,<sup>46</sup> seventeen-page Joint Position Paper<sup>47</sup> and their two-inch thick documents as attachments. These submissions certainly could not have come from parties who did not sufficiently understand the charges hurled against them.

Petitioners, too, harp on the OMB's purported eight-year delay in disposing of the cases against them. This issue is being raised for the first time here and now. Petitioners never raised it in all the eight years the proceedings below pended. Even then, aside from claiming here that the case had dragged for over eight years before the OMB, petitioners have not cited the specific attendant circumstances in support of their lamentation, e.g., the length of delay, reason for the delay, petitioners' assertion of their right to speedy disposition of the cases against them and consequent prejudice to them,<sup>48</sup> if any.

In any case, whether there was inordinate delay below is another question of fact which, again, the Court, not being a trier of facts, cannot take cognizance of.

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<sup>41</sup> *Rollo* (Vol. I), pp. 287-300.

<sup>42</sup> *Id.* at 580-592.

<sup>43</sup> *Id.* at 211-223.

<sup>44</sup> *Villanueva v. Caparas*, 702 Phil. 609, 614 (2013).

<sup>45</sup> *PCGG v. Navarro-Gutierrez*, 772 Phil. 91, 101 (2015).

<sup>46</sup> *Rollo* (Vol. II), pp. 617 – 633.

<sup>47</sup> *Id.* at 670-687.

<sup>48</sup> See *Magante v. Sandiganbayan*, G.R. Nos. 230950-51, July 23, 2018.

In another vein, while indeed the CA had cleared petitioners of any administrative liability for serious dishonesty and grave misconduct based on the same acts for which they are criminally charged, the same does not affect the finding of probable cause against them here. For one, there is no showing that the decision of the CA is final and executory. For another, although the criminal cases involve the same acts or omissions complained of in the administrative cases, petitioners' absolution in the latter does not bar their prosecution in the former, and vice versa. The quantum of evidence required in one is different from the quantum of evidence required in the other.<sup>49</sup>

Petitioners also raise the issue of whether they can be faulted for their alternate and/or simultaneous use of Fair Market Value and/or Acquisition Cost in the valuation of their real properties declared in their SALNs.<sup>50</sup> Suffice it to state that the presence or absence of good faith still is another question of fact. We reiterate that the Court is not a trier of facts.

In closing, the Court refers to *Dichaves v. Office of the Ombudsman*,<sup>51</sup> viz:

As a general rule, this Court does not interfere with the Office of the Ombudsman's exercise of its constitutional mandate. Both the Constitution and Republic Act No. 6770 (The Ombudsman Act of 1989) give the Ombudsman wide latitude to act on criminal complaints against public officials and government employees. The rule on non-interference is based on the "respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman[.]"

An independent constitutional body, the Office of the Ombudsman is "beholden to no one, acts as the champion of the people [,] and [is] the preserver of the integrity of the public service." Thus, it has the sole power to determine whether there is probable cause to warrant the filing of a criminal case against an accused. This function is *executive* in nature.

The executive determination of probable cause is a highly factual matter. It requires probing into the "existence of such *facts and circumstances* as would excite the belief, in a reasonable mind, *acting on the facts within the knowledge of the prosecutor*, that the person charged was guilty of the crime for which he [or she] was prosecuted."

The Office of the Ombudsman is armed with the power to investigate. It is, therefore, in a better position to assess the strengths or weaknesses of the evidence on hand needed to make a finding of probable cause. As this Court is not a trier of facts, we defer to the sound judgment of the Ombudsman.

Practicality also leads this Court to exercise restraint in interfering with the Office of the Ombudsman's finding of probable cause. *Republic v. Ombudsman Desierto* explains:

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<sup>49</sup> See *De Leon v. People of the Philippines*, G.R. No. 222861, April 23, 2018.

<sup>50</sup> *Rollo* (Vol. I), pp. 379-412.

<sup>51</sup> 802 Phil. 564, 589-591 (2016).

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[T]he functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complaint.

Invoking an exception to the rule on non-interference, petitioner alleges that the Ombudsman committed grave abuse of discretion. According to him: (a) he was not given the opportunity to cross-examine the witnesses, (b) the Ombudsman considered pieces of evidence not presented during the preliminary investigation, and (c) there is no probable cause to charge him with plunder.

While, indeed, this Court may step in if the public prosecutor gravely abused its discretion in acting on the case, such grave abuse must be substantiated, not merely alleged. In *Casing v. Hon. Ombudsman, et al.*:

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. The Ombudsman's exercise of power must have been done in an arbitrary or despotic manner — which must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law — in order to exceptionally warrant judicial intervention.

As in *Dichaves*,<sup>52</sup> there is here no showing that the OMB gravely abused its discretion in finding probable cause against petitioners for violation of Section 7 of RA 3019, in relation to Section 8 of RA 6713 and for forfeiture of unlawfully acquired properties under RA 1379. The Court, therefore, adheres to the rule of judicial restraint or non-interference with the OMB's exercise of its constitutional investigative power and its consequent finding of probable cause.

Accordingly, the petition is **DISMISSED** and the Joint Resolution dated August 12, 2016 and Joint Order dated October 2, 2017, in Case Nos. OMB-V-C-15-0115 and OMB-V-F-15-0001, **AFFIRMED**.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

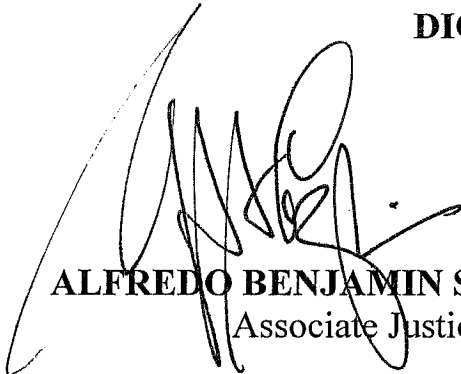
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<sup>52</sup> *Id.*, citations omitted.

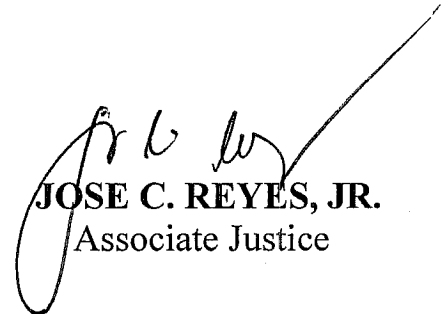
**WE CONCUR:**



**DIOSDADO M. PERALTA**  
Chief Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

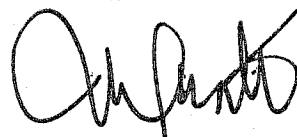


**JOSE C. REYES, JR.**  
Associate Justice

(on official leave)  
**MARIO V. LOPEZ**  
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

