



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

LILYBETH R. PEREZ,  
*Petitioner,*

G.R. Nos. 225568-70\*

Present:

- versus -

GESMUNDO, C.J.,  
*Chairperson,*  
CAGUIOA,  
LAZARO-JAVIER,  
LOPEZ, M., and  
LOPEZ, J., JJ.

OFFICE OF THE  
OMBUDSMAN,  
*Respondent.*

Promulgated:

FEB 15 2022

x-----x

DECISION

GESMUNDO, C.J.:

In all criminal proceedings, the Court has the duty to balance the State's interest in prosecuting charges with an individual's rights to due process and to speedy disposition of cases. To guarantee these constitutionally protected rights, quasi-judicial and administrative bodies are enjoined to judiciously exert compliance with the prescribed time periods in resolving the complaints filed before them. Any perceived delay must be justified by the complexity of the issues or volume of evidence presented and must not be prejudicial to the accused. Otherwise, the proceedings will be construed as oppressive for having forced the accused to endure an unnecessarily protracted criminal prosecution indefinitely.

\* Part of the Supreme Court Decongestion Program.

### The Case

This is a petition for *certiorari* under Rule 65 of the Rules of Court assailing the December 15, 2015 Joint Resolution<sup>1</sup> of the Office of the Ombudsman (*Ombudsman*) in OMB-C-C-05-0681-L, OMB-C-C-05-0686-L, and OMB-C-C-05-0687-L, and its April 12, 2016 Joint Order<sup>2</sup> which found probable cause to indict Lilybeth R. Perez<sup>3</sup> (*petitioner*) for violation of Section 8 of Republic Act (*R.A.*) No. 6713.<sup>4</sup>

### Antecedents

On December 5, 2005, the General Investigation Bureau-A (*complainant*) of the Ombudsman filed several Criminal and Administrative Complaints<sup>5</sup> against petitioner in her capacity as Revenue Officer I of the Bureau of Internal Revenue (*BIR*)-Tax Fraud Division. Petitioner, together with a certain Amelita E. Abad and Aguinaldo L. Miravalles, was charged in relation to her Statement of Assets, Liabilities and Net Worth (*SALN*) for the years 1994 to 2002.<sup>6</sup>

In particular, complainant alleged that petitioner: (1) failed to file her 1999 SALN; (2) acquired properties manifestly out of proportion to her lawful income since her assets increased by ₱2,782,000.00 in a span of eight years despite her legitimate annual income as a Revenue Officer being merely ₱772,800.00; (3) falsely declared in her 1997 SALN that she bought a parcel of land in Limay, Bataan, but which transaction was consummated in 1998; (4) increased the acquisition cost of her Bataan property in her 2001 and 2002 SALNs; (5) declared a false market value in her 1994 to 2000 SALNs for the parcel of land located in Valenzuela City; (6) made over declarations of her liabilities with Fatima Credit Cooperative (*FCC*) in her 1997 and 1998 SALNs; and (7) failed to disclose that she had a child in her SALNs for the years 1995 to 1998.<sup>7</sup>

In her Counter-Affidavits,<sup>8</sup> petitioner argued that all her properties were legitimately acquired. She asserted that the increase in her assets can be explained by the loans she made from the Government Service Insurance System (*GSIS*) and FCC to acquire some properties from 1994 to 1998. She

<sup>1</sup> *Rollo*, pp. 56-65. In OMB-C-C-05-0690-L, Lilybeth R. Perez is not a party to the case.

<sup>2</sup> *Id.* at 66-70.

<sup>3</sup> Also referred to as "Lilibeth R. Perez" in some parts of the *rollo* (see *rollo*, p. 160).

<sup>4</sup> Otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees."

<sup>5</sup> *Rollo*, pp. 96-108.

<sup>6</sup> *Id.* at 57-58.

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

<sup>8</sup> *Id.* at 235-241; 251-253.

revealed that aside from her salary, she also earned annual additional income of ₱294,000.00 from the rentals of her seven small apartment units in Valenzuela City, which she acquired from her parents through donation. The fair market value of her jewelry and her Valenzuela lot also increased, as duly reflected in her SALNs for the years 1995 to 1998. In her 2001 and 2002 SALNs, petitioner declared her time deposits with FCC and placed it under the heading "Cash and cash substitutes, investments, furniture and fixtures, jewelries, legal and accounting books and references, motor vehicles, appliances." Lastly, to explain why her SALN for the year 1999 was not submitted to the BIR National Office, petitioner averred that she filed the same with the Administrative Section of Revenue District No. 27 because she was detailed at said district office during that time.

### Ombudsman Rulings

In its June 8, 2007 Decision,<sup>9</sup> the Ombudsman dismissed the charge of failure to file a SALN for the year 1999 against petitioner.

On December 15, 2015, the Ombudsman issued a joint resolution finding probable cause to indict petitioner for six counts of the offense under Sec. 8, in relation to Sec. 11 of R.A. No. 6713. The dispositive portion reads:

**WHEREFORE**, finding probable cause for six (6) counts of violation of Section 8 in relation to Section 11 of R.A. No. 6713 against Lilybeth R. Perez, let the corresponding Informations be **FILED** with the appropriate court.

The criminal charges against respondents Amelita E. Abad and Aguinaldo L. Miravalles are hereby **DISMISSED**.

**SO ORDERED.**<sup>10</sup>

Foremost, the Ombudsman only considered the SALN violations for the years 1997 to 2002 since the alleged violations committed by petitioner in her 1994 to 1996 SALNs had already prescribed. Nonetheless, it found that petitioner failed to disclose her seven apartment units in Valenzuela City and the rental income she earned from said property in her SALNs for the years 1997 to 2002. The Ombudsman also opined that petitioner violated the legal requirements pertaining to the submission of her SALN when she failed to disclose the existence of her child in her 1997 and 1998 SALNs.

---

<sup>9</sup> Id. at 274-280.

<sup>10</sup> Id. at 64.

The Ombudsman, however, dismissed the other criminal and administrative charges against petitioner, and ruled that she could not be guilty of perjury since there was no showing that she deliberately asserted falsehoods in her SALNs for the years 1994 to 2002. The alleged violation of R.A. No. 1379 was also found by the Ombudsman as baseless. The Ombudsman recognized that an increase in the net worth did not automatically mean an increase in assets or properties by purchase. According to the Ombudsman, complainant manifestly failed to substantiate its claim that the increase in petitioner's net worth was caused by acquisition of properties from illegal sources. The Ombudsman gave credence to petitioner's claim that she had other sources of income and that she had taken out several loans from the GSIS and FCC, which were used to acquire the assets she had gained over the years. Lastly, the Ombudsman dismissed the charges against petitioner's co-accused.

Aggrieved, petitioner filed a motion for reconsideration asserting that her right to speedy disposition of cases was violated. She argued that the Ombudsman violated such right when it took 10 years from the time of the filing of the complaints to issue the joint resolution.

Additionally, petitioner claimed that she exercised good faith in filing her SALNs for the years 1997 to 2002, which was bolstered by the Ombudsman's finding that there was no evident bad faith on her part when she filed her SALNs. Petitioner averred that she declared the Valenzuela property in her SALNs and claimed that the apartment units were mere improvements thereon. Such improvements were already included in the fair market value she indicated in her SALNs, thereby explaining the increase from 1998 to 1999. As for her failure to declare the rental income from the apartment units, petitioner alleged that she was denied due process of law since such allegation was not included in the complaints, which deprived her of the right to rebut the same by competent evidence.

Petitioner also contended that she was not obliged to declare the existence of her child since the requirement under the law specified that the public officer is required to disclose his or her unmarried child only if the latter has assets, liabilities, business interests or financial connections.

In its April 12, 2016 Joint Order, the Ombudsman denied petitioner's motion for reconsideration for being filed out of time. The Ombudsman also held that it is not precluded from finding her guilty of the offense under Sec. 8 of R.A. No. 6713 on the basis of her failure to disclose the rental income from her apartment units in Valenzuela City, despite not being alleged in the original complaint.

Hence, this petition for *certiorari* based on the following grounds:

- I. THE RIGHTS OF THE ACCUSED GUARANTEED UNDER THE CONSTITUTION WERE VIOLATED.
- II. THE ALLEGED UNDECLARED ITEMS ARE NOT REQUIRED TO BE DISCLOSED IN THE SALN.
- III. THE DENIAL OF THE MOTION FOR RECONSIDERATION MUST BE REVERSED IN THE INTEREST OF SUBSTANTIAL JUSTICE.

In her Amended Petition for *Certiorari*,<sup>11</sup> petitioner reiterated the violation of her constitutional right to speedy disposition of cases as the case had been pending before the Ombudsman for 10 years from the time the complaints were filed. Moreover, petitioner claimed that her right to due process was violated since the complaint where she was criminally charged with violations in her SALN did not include any allegation that she had failed to declare the rental income from the apartment units on her Valenzuela property. Petitioner explained that she considered the apartment units as improvements on the Valenzuela property which also accounted for the increase in the fair market value of the Valenzuela property that was indicated in her SALNs. Nonetheless, petitioner opined that the law on SALN does not require a declaration of income sources, but only of assets, liabilities, business interests, and financial interests. Anent the allegation that she failed to disclose the existence of her daughter, petitioner maintained that the law only requires the disclosure of the assets, liabilities, net worth, and financial and business interests of unmarried children under 18 years and living in the parent's household. Since her daughter did not have assets or liabilities, petitioner was not obliged to disclose her daughter's existence in her SALNs. Lastly, she claims that any error of judgment she may have made in her SALN was not made in bad faith or clouded by any malice.

In its Comment<sup>12</sup> dated October 20, 2016, the Ombudsman argued that its assailed joint resolution is final and immutable given petitioner's failure to timely file her motion for reconsideration. The Ombudsman also contended that it had sufficient evidence to indict petitioner for violations of the provisions of R.A. No. 6713; and that petitioner had alleged factual assignment of errors in the instant petition which should otherwise be threshed out in a full-blown trial.

---

<sup>11</sup> Id. at 342-392.

<sup>12</sup> Id. at 292-300.

Petitioner, in her Reply<sup>13</sup> dated February 17, 2017, invokes substantial justice in granting the instant petition despite the motion for reconsideration being filed out of time. She attributed the late filing to her former counsel's erroneous application of the Rules of Procedure of the Ombudsman. Petitioner again reiterated the Ombudsman's failure to terminate its preliminary investigation for 10 years.

### **The Court's Ruling**

The petition is meritorious.

The Ombudsman correctly pointed out that petitioner's motion for reconsideration of its joint resolution was belatedly filed. Petitioner also admitted the late filing, albeit arguing that her counsel erroneously applied Administrative Order (*A.O.*) No. 07, or the Rules of Procedure of the Ombudsman, and used 15 days in filing the motion for reconsideration, instead of five days.

Under Sec. 7, Rule II of the Rules of Procedure of the Ombudsman:

Section 7. Motion for reconsideration. –

a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court[.]

Petitioner filed her motion for reconsideration 10 days later than the allowable period to do so. In effect, the December 15, 2015 Joint Resolution issued by the Ombudsman already attained finality and had become immutable. According to petitioner, her former counsel misapplied the Rules of Procedure of the Ombudsman and followed a 15-day reglementary period, which was the rule before being amended by A.O. No. 15 dated February 16, 2000.

Time and again, the Court has relaxed the observance of procedural rules to advance substantial justice. Where a rigid application of the rules will result in a manifest failure or miscarriage of justice, technicalities should be disregarded in order to resolve the case. The Court has, in several cases, relaxed the doctrine of immutability of judgments in the interest of substantial justice.

---

<sup>13</sup> Id. at 305-327.

In *Republic v. Dagondon*,<sup>14</sup> the Court resolved the case on the merits despite petitioner's failure to timely file a motion for reconsideration of the RTC decision. The Court held:

Under the doctrine of finality and immutability of judgments, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land. Upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same.

The mandatory character, however, of the rule on immutability of final judgments was not designed to be an inflexible tool to excuse and overlook prejudicial circumstances. Hence, the doctrine must yield to practicality, logic, fairness, and substantial justice. In *Sumbilla v. Matrix Finance Corporation*, the Court had the occasion to name certain circumstances which necessitate a relaxation of the rule on the immutability of final judgments, to wit:

Consequently[,] **final and executory judgments were reversed when the interest of substantial justice is at stake and where special and compelling reasons called for such actions.** In *Barnes v. Judge Padilla*, we declared as follows:

x x x [A] final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.

However, **this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor[,] or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.**

Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. **Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed.** Even the Rules of Court reflects this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.

---

<sup>14</sup> 785 Phil. 210 (2016).

As will be discussed, a departure from the doctrine is warranted since its strict application would, in effect, circumvent and undermine the stability of the Torrens System of land registration adopted in this jurisdiction. Relatedly, it bears stressing that the subject matter of the instant controversy, *i.e.*, Lot 84, is a sizeable parcel of real property. More importantly, petitioner had adequately presented a strong and meritorious case.

Thus, in view of the aforesaid circumstances, the Court deems it apt to exercise its prerogative to suspend procedural rules and to resolve the present controversy according to its merits.<sup>15</sup> (emphases and underscoring in the original; citations omitted)

Indeed, the Court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the Court, not a duty. The "discretion" must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case.<sup>16</sup>

Besides, the doctrine of immutability of judgments is not an iron-clad rule as it is subject to the following exceptions: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.<sup>17</sup>

The present case falls under the third exception. The Court has held that where there is an apparent denial of the fundamental right to due process, a decision that is issued in disregard of that right is void for lack of jurisdiction, in view of the cardinal precept that in cases of violations of basic constitutional rights, courts are ousted from their jurisdiction.<sup>18</sup> The Court finds that there was an unexplained and inordinate delay in the preliminary investigation conducted by the Ombudsman, which violated petitioner's constitutional right to speedy disposition of cases and right to procedural due process of law. Such delay rendered void the assailed joint resolution and joint order.

The right to speedy disposition of cases is enshrined under Sec. 16, Article III of the Constitution, which states:

---

<sup>15</sup> *Id.* at 215-217.

<sup>16</sup> *Tiangco v. Land Bank of the Philippines*, 646 Phil. 554, 563-564 (2010).

<sup>17</sup> *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66*, 659 Phil. 117, 123 (2011).

<sup>18</sup> *Orlina v. Ventura*, 844 Phil. 334, 346 (2018).



Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

Sec. 12, Art. XI of the Constitution also specifically enjoins the Ombudsman to exercise promptness in the resolution of complaints filed before it, to wit:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

R.A. No. 6770, or the Ombudsman Act of 1989, echoed the constitutional mandate of the Ombudsman to expedite its proceedings and investigation:

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

In *Cagang v. Sandiganbayan*<sup>19</sup> (*Cagang*), the Court defined the guidelines in determining whether a violation of a person's right to speedy disposition of cases is committed:

*First*, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.

*Second*, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

---

<sup>19</sup> 837 Phil. 815 (2018).



*Third*, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

If the defense has the burden of proof, it must prove first, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and second, that the defense did not contribute to the delay.

Once the burden of proof shifts to the prosecution, the prosecution must prove first, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; second, that the complexity of the issues and the volume of evidence made the delay inevitable; and third, that no prejudice was suffered by the accused as a result of the delay.

*Fourth*, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

*Fifth*, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.<sup>20</sup>

---

<sup>20</sup> Id. at 880-882.

Indeed, there is a defined correlation between the constitutional right to due process and the right to speedy disposition of cases.<sup>21</sup> The protection of a person's constitutional right to procedural due process warrants the State's obligation to conform to the prescribed periods under our laws and rules.<sup>22</sup> Hence, the Ombudsman, as a quasi-judicial body, must conform to the period provided by law in order to protect the accused's constitutional rights. Its failure to strictly follow the time periods is a violation of the accused's right to due process of law and shall cause the burden of proof to shift to the prosecution.

In the present case, the complaints were filed on December 5, 2005. Meanwhile, petitioner filed her counter-affidavits on March 10, 2006. The decision dismissing the charge regarding the failure to file the 1999 SALN was issued on June 8, 2007, while the assailed joint resolution was issued on December 15, 2015.

In *Alarilla v. Sandiganbayan*<sup>23</sup> (*Alarilla*), the Court considered two periods and eventually ruled that there was inordinate delay in the preliminary investigation conducted by the Ombudsman. The periods applied were: (1) the time period found under Sec. 3, Rule 112 of the Revised Rules of Criminal Procedure, which grants the investigating prosecutor 10 days after the investigation to determine the existence of probable cause; and (2) the period provided under A.O. No. 1, Series of 2020 issued by the Ombudsman, which gives investigators and prosecutors at most 12 months for simple cases, or 24 months for complex cases, to complete the preliminary investigation. The Court eventually held that the burden of proof shifted to the Ombudsman, in that it had to establish that the delay was reasonable and justified.

Applying *Alarilla*, the burden of proof shifted to the Ombudsman when it issued the joint resolution 10 years after the complaints against petitioner were filed. Even assuming that the one-year extension is applied to the 24-month period for complex cases, there is still an inordinate delay of seven years from the time the complaints were filed against petitioner in 2005, until the joint resolution was issued in 2015.

Consequently, the Ombudsman must prove that the delay in issuing the joint resolution was reasonable and justified under the circumstances. To restate the guidelines under *Cagang*, when the burden shifts to the prosecution, it must prove that: (1) it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the

---

<sup>21</sup> See *Tatad v. Sandiganbayan*, 242 Phil. 563, 573-576 (1988).

<sup>22</sup> *Perez v. Sandiganbayan*, G.R. No. 245862, November 3, 2020.

<sup>23</sup> G.R. Nos. 236177-210, February 3, 2021.

case; (2) the complexity of the issues and the volume of evidence made the delay inevitable; and (3) no prejudice was suffered by the accused as a result of the delay.<sup>24</sup>

In the present case, the Ombudsman manifestly failed to explain in its comment before the Court, the 10-year delay of its December 15, 2015 Joint Resolution. There is even dearth of allegation or proof that the case involves complex issues or that the voluminous records could have caused the inordinate delay.

In *Perez v. Sandiganbayan*<sup>25</sup> (*Perez*), the Court recognized that the Ombudsman has constraints in resources which may hamper its capacity to strictly follow the periods set by law in the resolution of cases. In the same case, however, the Court also ruled that heavy case workload is not, in itself, an acceptable excuse to disregard the prescribed periods. It must also be established that the records or evidence are voluminous. Thus, the Court, in *Perez*, ruled that there was a violation of petitioner's right to speedy disposition of cases considering that the questioned transaction therein involved only one contract, belying the claim that the records were voluminous.

In this case, there are five SALNs in question covering the years 1998 to 2002. A simple examination of the five SALNs would have sufficed in finding that there was failure to indicate the details or information required to be declared by public officers; yet, it took the Ombudsman 10 years to issue the assailed joint resolution. Such delay in completing the preliminary investigation is clearly unjustified.

Granting there were other criminal and administrative charges filed against petitioner which could have justified the length of the preliminary investigation, a 10-year delay is still unjustified. It bears stressing that the charges were not complex nor involved issues of voluminous records that could not be resolved or examined within the timeframe provided by law.

On the other hand, petitioner immediately raised her right to speedy disposition of cases in the motion for reconsideration she filed before the Ombudsman. Similar to *Alarilla*, the Court finds that this is a clear showing that petitioner did not waive nor sleep on her constitutional right to speedy disposition of cases.

Considering the inordinate delay of 10 years by the Ombudsman in the conduct of its preliminary investigation and the apparent lack of

---

<sup>24</sup> *Cagang v. Sandiganbayan*, supra note 19 at 881.

<sup>25</sup> Supra note 22.

sufficient justification, petitioner's right to speedy disposition of cases and right to procedural due process of law have been patently disregarded. On this point alone, the complaints against petitioner should be dismissed for having been issued with grave abuse of discretion amounting to lack of jurisdiction on the part of the Ombudsman.

At any rate, the Court finds that petitioner did not violate R.A. No. 6713. In *Daplas v. Department of Finance*<sup>26</sup> (*Daplas*), the Court underscored the importance of filing a SALN:

The **requirement of filing a SALN** is enshrined in no less than the 1987 Constitution in order to promote transparency in the civil service, and operates as a **deterrent against government officials bent on enriching themselves through unlawful means**. By mandate of law, *i.e.*, RA 6713, it behooves every government official or employee to accomplish and submit a sworn statement completely disclosing his or her assets, liabilities, net worth, and financial and business interests, including those of his/her spouse and unmarried children under eighteen (18) years of age living in their households, in order to **suppress any questionable accumulation of wealth** because the latter usually results from non-disclosure of such matters.

x x x x

Indeed, the failure to file a truthful SALN puts in doubt the integrity of the public officer or employee, and would normally amount to dishonesty. It should be emphasized, however, that mere non-declaration of the required data in the SALN does not automatically amount to such an offense. Dishonesty requires malicious intent to conceal the truth or to make false statements. In addition, **a public officer or employee becomes susceptible to dishonesty only when such non-declaration results in the accumulated wealth becoming manifestly disproportionate to his/her income, and income from other sources, and he/she fails to properly account or explain these sources of income and acquisitions.**<sup>27</sup> (emphases in the original)

In this case, petitioner was indicted for failure to declare her child in the 1997 and 1998 SALNs she submitted. Petitioner contended that her minor daughter had no assets, liabilities, or business and financial interests, which justified the non-declaration in her SALN.

The rationale behind the requirement of declaring the minor children of the public officer was explained by the Court in *Abid-Babano v. Executive Secretary*.<sup>28</sup>

---

<sup>26</sup> 808 Phil. 763 (2017).

<sup>27</sup> *Id.* at 771-773.

<sup>28</sup> G.R. No. 201176, August 28, 2019, 915 SCRA 299.

The addition of the threshold age for unmarried children under Republic Act No. 6713 in relation to the SALN disclosure requirement was rationalized by Senator Rene Saguisag in his sponsorship speech of the legislative proposal, to wit:

On age, since there is a requirement here – that a public official has to report the assets, liabilities, net worth, business and financial interest of minors living with the public official, we decided to lower the cut-off age to 18, and he must be living with the public official. In one of the bills now before us, it is entirely possible even for an 18-year old to be an acting mayor. If he lives separately from his parent who is a public official, it seems pointless to require his parents to include him in the reporting requirement.

The legislative intent to exempt the properties of children who are already 18 years old and older from the SALN disclosure requirement appears to be rooted in the legal concept of emancipation. Under Article 234 of the *Family Code*, as amended, emancipation takes place by the attainment of majority which commences at the age of eighteen years. The law decrees that the legal consequence of emancipation is the termination of “parental authority over the person and property of the child who shall then be qualified and responsible for all acts of civil life, save the exceptions established by existing laws in special cases.”

If the rationale for excluding the properties of the public official’s emancipated child from the SALN is the child’s legal capacity to hold property independently and separately from the parents, that rationale should equally apply to a public official’s spouse, who by law or by antenuptial agreement, may unilaterally acquire and dispose of his or her own properties under a regime of complete separation of property. **Indeed, the evil sought to be prevented by our laws on the SALN, i.e., that a spouse would be used to conceal from the public the full extent of a government employee’s wealth and financial/proprietary interests,** does not exist in the case of a public employee and his/her spouse whose property regime is complete separation of property considering that whatever properties are held by each spouse is exclusively his/her own and can only be counted towards his/her own “wealth.”<sup>29</sup> (emphasis supplied)

From the foregoing, the declaration in the SALN of all minor children living with the public officer or employee proceeds from the likelihood that the public officer or employee may use his or her child to conceal the full extent of his wealth. Thus, petitioner’s explanation, *i.e.*, that she did not declare her newborn child in the 1995 to 1997 SALNs because her child had no assets, liabilities, business or financial interests, is well taken. Significantly, petitioner declared the existence of her child in the SALN she submitted for 1999, 2000, 2001, and 2002. This further negates any bad faith or malicious intent on her part to violate the provisions of R.A. No. 6713.

<sup>29</sup> Id. at 316-318.

Anent the Ombudsman's finding that petitioner violated R.A. No. 6713 for failure to disclose the apartment units and the rental income she earned from these, the Court likewise finds no malicious intent on petitioner's part to conceal the same. In *Daplas*, the Court found that petitioner therein had no intent to conceal the truth or to make false statements since she herself admitted in her counter-affidavit the business interest with KEI. According to the Court, such admission belied any malicious intent to conceal.

Similarly, it was petitioner herein who disclosed in her counter-affidavit the apartment units in the Valenzuela property and the rental income she earns from said property. She also explained that the apartment units were declared in her SALNs as reflected by the increase in the fair market value of the Valenzuela property. As shown by her 1998 SALN, the fair market value of the property at that time was merely ₱672,000.00. In the 1999 SALN and the succeeding SALNs submitted by petitioner, the fair market value increased to ₱864,000.00.

Moreover, income or sources of income is not required to be declared or explained in the SALN. R.A. No. 6713 requires only a declaration of the assets, liabilities, net worth, and financial and business interests of the public officer or employee, including those of their spouses and of unmarried children under 18 years of age living in their households.<sup>30</sup> The income received by the public officer from other sources must be declared as part of cash on hand or in bank, which petitioner herein did so in the questioned SALNs.

All told, the Court finds that the Ombudsman gravely abused its discretion amounting to lack of jurisdiction in issuing the assailed joint resolution and joint order. The complaints against petitioner should be dismissed in view of the inordinate delay in the termination of the preliminary investigation, which violated petitioner's rights to speedy disposition of cases and to procedural due process of law.

**WHEREFORE**, the instant petition for *certiorari* is **GRANTED**. The December 15, 2015 Joint Resolution of the Office of the Ombudsman in OMB-C-C-05-0681-L, OMB-C-C-05-0686-L, and OMB-C-C-05-0687-L, and its April 12, 2016 Joint Order, finding probable cause to indict Lilybeth R. Perez for six (6) counts of the offense under Section 8, in relation to Section 11 of Republic Act No. 6713, are hereby **ANNULLED** and **SET ASIDE**. The Ombudsman is hereby **ORDERED** to **DISMISS** the complaints filed against petitioner Lilybeth R. Perez for violating her constitutional right to speedy disposition of cases.

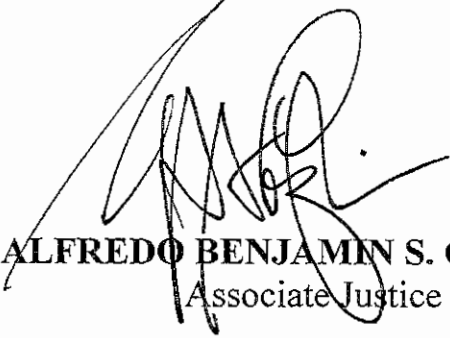
---

<sup>30</sup> Republic Act No. 6713, Sec. 8.

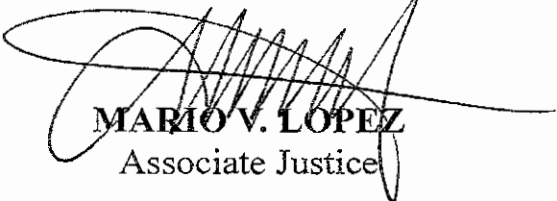
**SO ORDERED.**


  
**ALEXANDER G. GESMUNDO**  
Chief Justice

**WE CONCUR:**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice


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

  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP Y. 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice