



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

CONCEPCION C. DAPLAS,
City Treasurer, Pasay City, and
Concurrent OIC, Regional Director
Bureau of Local Government
Finance (BLGF) Region VII,
 Petitioner,

G.R. No. 221153

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

- versus -

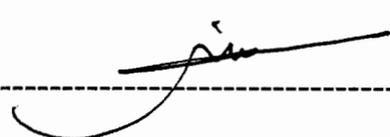
DEPARTMENT OF FINANCE,
 represented by **TROY**
FRANCIS C. PIZARRO,
JOSELITO F. FERNANDEZ,
REYNALDO* L. LAZARO,
MELCHOR B. PIOL, and
ISMAEL S. LEONOR, and THE
OFFICE OF THE
OMBUDSMAN,

Promulgated:

APR 17 2017

Respondents.

X ----- X



DECISION

PERLAS-BERNABE, J.:

Before the Court is a Petition¹ for review on *certiorari* assailing the Decision² dated August 27, 2014 and the Resolution³ dated October 22, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 122851, which dismissed petitioner Concepcion C. Daplas' (petitioner) petition for review,

* "Reynalito" in some parts of the records; *rollo*, p. 98.

¹ Id. at 41-69.

² Id. at 12-32. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Magdangal M. De Leon and Stephen C. Cruz concurring.

³ Id. at 34-37.

thereby upholding the Joint Decision⁴ dated May 8, 2007 of the Office of the Ombudsman (Ombudsman) in the administrative aspects of the cases, docketed as OMB-C-A-05-0234-E and OMB-C-A-06-0354-G. The Ombudsman found petitioner guilty of Dishonesty, Grave Misconduct, and violation of Section 8 (A) of Republic Act No. (RA) 6713, and imposed the penalty of dismissal from service, and all its accessory penalties, without prejudice to criminal prosecution.

The Facts

Petitioner joined the government service as a casual clerk for the Municipal Treasurer of Kawit, Cavite sometime in 1968, and had held various posts until she was appointed as the Pasay City Treasurer on May 19, 1989, with a gross monthly salary of ₱28,722.00. At the time material to the complaints, petitioner was concurrently holding the position of Officer-in-Charge, Regional Director of the Bureau of Local Government Finance (BLGF) in Cebu City.⁵

Two (2) separate complaints were filed against petitioner by the Department of Finance-Revenue Integrity Protection Service (DOF-RIPS) and the Field Investigation Office (FIO) of the Office of the Ombudsman (Ombudsman; respondents) for averred violations⁶ of Sections 7 and 8 of RA 3019,⁷ Section 8 (A) of RA 6713,⁸ Section 2 of RA 1379,⁹ Article 183¹⁰ of the Revised Penal Code (RPC), and Executive Order No. (EO) 6¹¹ dated March 12, 1986,¹² constituting Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, arising out of her failure to

⁴ Id. at 97-133. Penned by Graft Investigation and Prosecution Officer Leilani P. Tagulao-Marquez, recommended for approval by Assistant Ombudsman Pelagio S. Apostol, and approved by Deputy Ombudsman for Luzon Mark E. Jalandoni.

⁵ Id. at 98-99.

⁶ Id. at 98.

⁷ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT," as amended (August 17, 1960).

⁸ Entitled "AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES," otherwise known as the "CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES" (February 20, 1989).

⁹ Entitled "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" (June 18, 1955).

¹⁰ Article 183. *False testimony in other cases and perjury in solemn affirmation.* — The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person who, knowingly make untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

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

¹¹ Entitled "PROVIDING PROCEDURES IN THE DISPOSITION OF REQUESTS OF GOVERNMENT OFFICIALS AND EMPLOYEES FOR AUTHORITY TO TRAVEL ABROAD" issued by former President Corazon C. Aquino on March 12, 1986.

¹² *Rollo*, pp. 13-14.

disclose the true and detailed statement of her assets, liabilities, and net worth, business interests, and financial connections, and those of her spouse in her Statements of Assets, Liabilities, and Net Worth (SALNs).¹³ In particular, petitioner: (1) failed to declare (a) a 1993 Mitsubishi Galant sedan with Plate No. TBH-238 (Galant sedan) registered under the name of her late husband with an estimated value of ₱250,000.00; (b) her stock subscription in KEI Realty and Development Corp. (KEI) valued at ₱1,500,000.00 with a total paid up amount of ₱800,000.00;¹⁴ and (c) several real properties in Cavite¹⁵ (which had been the subject of a previous administrative complaint against her that had been dismissed¹⁶); and (2) traveled multiple times abroad without securing a travel authority, which cast doubt on her real net worth and actual source of income considering her modest salary.¹⁷

For her part, petitioner insisted that she acquired her properties through lawful means, and maintained that she was not totally dependent on her salary to finance the said acquisitions.¹⁸ She alleged that: (a) her late husband purchased the Galant sedan out of his personal money, hence, the same did not form part of their conjugal properties;¹⁹ (b) she had already divested her interest in KEI in 1998, along with her husband, but her husband and children reacquired their respective shares sometime in 2003;²⁰ and (c) her travels were sponsored by the government or by her relatives abroad.²¹

The Ombudsman Ruling

In a Joint Decision²² dated May 8, 2007, the Ombudsman found petitioner guilty of Dishonesty, Grave Misconduct, and violation of Section 8 (A) of RA 6713, and imposed the penalty of Dismissal, and its accessory penalties, without prejudice to criminal prosecution.²³ It observed that petitioner committed perjury under Article 183 of the RPC when she failed to declare in her SALNs for 1997 to 2003 the Galant sedan, and her business interest in KEI in her 1997 SALN, which is sufficient basis to hold her liable for Dishonesty and Grave Misconduct.²⁴ Likewise, it found her liable for violation of Section 8 of RA 6713 for her failure to disclose the said assets despite the legal obligation to do so.²⁵

¹³ Id. at 99 and 112.

¹⁴ Id. at 102-103.

¹⁵ Id. at 99-100.

¹⁶ Id. at 113-114.

¹⁷ Id. 104-105.

¹⁸ Id. at 106.

¹⁹ Id. at 122.

²⁰ Id. at 108-109.

²¹ Id. at 106.

²² Id. at 97-133.

²³ Id. at 131-132.

²⁴ Id. at 125-126.

²⁵ Id. at 127.

However, the Ombudsman found respondents to have failed to substantiate the charges that: (a) petitioner's numerous foreign travels were indicia of her acquisition of unlawful wealth;²⁶ and (b) KEI was put up as a subterfuge for petitioner's ill-gotten wealth.²⁷

Aggrieved, petitioner filed a motion for reconsideration, which was denied in a Joint Order²⁸ dated May 30, 2011, prompting her to elevate her case before the Court of Appeals (CA), docketed as CA-G.R. SP No. 122851.

The CA Ruling

In a Decision²⁹ dated August 27, 2014, the CA dismissed the petition, holding that the Ombudsman's ruling was sufficiently supported by substantial evidence.³⁰ It found that petitioner's failure to declare all her assets and business interests constituted Dishonesty, Grave Misconduct, and a violation of Section 8 (A) of RA 6713.³¹ It gave no credence to her defense of good faith considering that she knew of the said assets and gave no justification for their exclusion in her SALNs.³² Moreover, it ruled that her resignation from the government service did not render the Ombudsman ruling moot.³³

Dissatisfied, petitioner moved for reconsideration, which the CA denied in a Resolution³⁴ dated October 22, 2015; hence, the instant petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly affirmed the Joint Decision of the Ombudsman finding petitioner liable for Dishonesty, Grave Misconduct, and violation of Section 8 (A) of RA 6713, and imposing on her the corresponding penalties.

The Court's Ruling

The petition is partly meritorious.

²⁶ Id. at 119.

²⁷ Id. at 128.

²⁸ Id. at 134-149. Penned by Graft Investigation and Prosecution Officer Leilani P. Tagulao-Marquez, reviewed by Director Nellie P. Bogueen-Golez, recommended by Assistant Ombudsman Marilou B. Ancheta-Mejica, and approved by Ombudsman Conchita Carpio-Morales.

²⁹ Id. at 12-32.

³⁰ Id. at 23.

³¹ Id. at 26.

³² Id. at 29-30.

³³ Id. at 22-23.

³⁴ Id. at 34-37.

The **requirement of filing a SALN** is enshrined in no less than the 1987 Constitution³⁵ in order to promote transparency in the civil service, and operates as a **deterrent against government officials bent on enriching themselves through unlawful means.**³⁶ 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,³⁷ in order to **suppress any questionable accumulation of wealth** because the latter usually results from non-disclosure of such matters.³⁸

In the present case, it is undisputed that petitioner failed to declare some properties in her SALNs for the years 1997 to 2003 despite the legal obligation to do so. Both the Ombudsman and the CA held that such omission provides substantial basis to hold petitioner liable for the administrative offenses of Dishonesty, Grave Misconduct, and violation of Section 8 (A) of RA 6713, warranting the supreme penalty of dismissal from service, with all its accessory penalties.

The Court disagrees.

Records reveal that the element of **intent to commit a wrong** required under both the administrative offenses of Dishonesty and Grave Misconduct³⁹ are lacking to warrant petitioner's dismissal from service.

Dishonesty is committed when an individual *intentionally* makes a false statement of any material fact, practices or attempts to practice any deception or fraud in order to secure his examination, registration, appointment, or promotion. It is understood to imply the disposition to lie, cheat, deceive, betray or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; and the lack of fairness and straightforwardness.⁴⁰

On the other hand, **misconduct is *intentional* wrongdoing or *deliberate* violation of a rule of law or standard of behavior.**

³⁵ Section 17, Article XI of the 1987 Constitution provides:

Section 17. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

³⁶ *Gupilan-Aguilar v. Office of the Ombudsman*, 728 Phil. 210, 232 (2014).

³⁷ See Section 8 of RA 6713.

³⁸ *Office of the Ombudsman v. Racho*, 656 Phil. 148, 161 (2011).

³⁹ *Id.*

⁴⁰ *Id.*

To constitute an administrative offense, misconduct **should relate to or be connected with the performance of the official functions and duties of a public officer. In grave misconduct**, as distinguished from simple misconduct, **the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.**⁴¹ Without any of these elements, the transgression of an established rule is properly characterized as simple misconduct only.⁴² Most importantly, without a **nexus between the act complained of and the discharge of duty**, the charge of grave misconduct shall necessarily fail.⁴³

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.**⁴⁴

Here, the Court finds that there is no substantial evidence of intent to commit a wrong, or to deceive the authorities, and conceal the other properties in petitioner's and her husband's names. Petitioner's failure to disclose in her 1997 SALN her business interest in KEI is not a sufficient badge of dishonesty in the absence of bad faith, or any malicious intent to conceal the truth or to make false statements. Bad faith does not simply connote bad judgment or negligence. It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill-will for ulterior purposes.⁴⁵

Notably, petitioner readily admitted in her Counter-Affidavit her business interest in KEI in 1997,⁴⁶ which belied any malicious intent to conceal. While concededly, the omission would increase her net worth for the year 1997, the Court observes that the Ombudsman declared respondent's evidence insufficient to warrant a finding that petitioner had any unexplained wealth.⁴⁷ On the contrary, it found that her children have the financial capacity to put up KEI.⁴⁸

⁴¹ *Imperial, Jr. v. Government Service Insurance System*, 674 Phil. 286, 296 (2011).

⁴² *Id.*

⁴³ *Gupilan-Aguilar v. Office of the Ombudsman*, supra note 36.

⁴⁴ *Id.* at 234.

⁴⁵ See *Monticalbo v. Maraya, Jr.*, 664 Phil. 1, 9 (2011).

⁴⁶ *Rollo*, pp. 123-124.

⁴⁷ *Id.* at 130.

⁴⁸ *Id.* at 129.

It should be emphasized that **the laws on SALN aim to curtail the acquisition of unexplained wealth.** Thus, in several cases⁴⁹ **where the source of the undisclosed wealth was properly accounted for, the Court deemed the same an “explained wealth” which the law does not penalize.** Consequently, absent any intent to commit a wrong, and having accounted for the source of the “undisclosed wealth,” as in this case, petitioner cannot be adjudged guilty of the charge of Dishonesty; but at the most, of mere negligence for having failed to accomplish her SALN properly and accurately.

Negligence is the omission of the diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time, and of the place. **In the case of public officials, there is negligence when there is a breach of duty or failure to perform the obligation,** and there is gross negligence when a breach of duty is flagrant and palpable.⁵⁰ **An act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or purposes,⁵¹ as in the present case, is merely Simple Negligence.**

In the same vein, petitioner’s failure to declare the Galant sedan in her SALNs from 1997 to 2003 stemmed from the fact that the same was registered in her husband’s name, and purportedly purchased out of his personal money.⁵² While such bare allegation is not enough to overthrow the presumption that the car was conjugal, neither is there sufficient showing that petitioner was motivated by bad faith in not disclosing the same. In fact, the Ombudsman conceded that petitioner’s husband was financially capable of purchasing the car,⁵³ negating any “unexplained wealth” to warrant petitioner’s dismissal due to Dishonesty.

Likewise, the charge of Grave Misconduct against petitioner must fail. Verily, the omission to include the subject properties in petitioner’s SALNs, by itself, does not amount to Grave Misconduct, in the absence of showing that such omission had, in some way, hindered the rendition of sound public service for there is no direct relation or connection between the two.⁵⁴

Accordingly, the Court finds no reason to hold petitioner liable for the charges of Dishonesty and Grave Misconduct, but declares her guilty, instead, of Simple Negligence in accomplishing her SALN. Simple

⁴⁹ *Navarro v. Office of the Ombudsman*, G.R. No. 210128, August 17, 2016; *Gupilan-Aguilar v. Office of the Ombudsman*, supra note 36; *Ombudsman v. Racho*, supra note 38.

⁵⁰ *Navarro v. Office of the Ombudsman*, supra note 49; *Office of the Ombudsman v. Bernardo*, 705 Phil. 524, 543 (2013); *Pleyto v. PNP-Criminal Investigation & Detection Group*, 563 Phil. 842, 910 (2007).

⁵¹ *Pleyto v. PNP-Criminal Investigation & Detection Group*, supra note 50.

⁵² *Rollo*, p. 122.

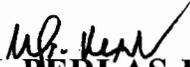
⁵³ *Id.*

⁵⁴ *Gupilan-Aguilar v. Office of the Ombudsman*, supra note 36 at, 231-232.

Negligence is akin to Simple Neglect of Duty,⁵⁵ which is a less grave offense punishable with suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.⁵⁶ Since the penalty of suspension can no longer be imposed on account of petitioner's resignation,⁵⁷ and considering that she readily admitted her omissions which do not appear to have been attended by any bad faith or fraudulent intent,⁵⁸ the Court finds that the penalty of fine in the amount equivalent to one (1) month and one (1) day⁵⁹ of petitioner's last salary is reasonable and just under the premises.

WHEREFORE, the petition is **PARTLY GRANTED**. The assailed Decision dated August 27, 2014 and the Resolution dated October 22, 2015 of the Court of Appeals in CA-G.R. SP No. 122851 are hereby **SET ASIDE**. A new one is **ENTERED** finding petitioner Concepcion C. Daplas **GUILTY** of **SIMPLE NEGLIGENCE** in accomplishing her Statements of Assets, Liabilities and Net Worth for the years 1997 to 2003, and is meted a fine in the amount equivalent to one (1) month and one (1) day of her last salary.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson

⁵⁵ See *Reyes v. Cabusao*, 502 Phil. 1, 7 (2005).

⁵⁶ See Section 46 (D) (1) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).

⁵⁷ *Rollo*, pp. 22-23.

⁵⁸ Section 48 of the RRACCS grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty.

⁵⁹ Section 47 (2) of the RRACCS reads:

Section 47. Penalty of Fine. – The following are the guidelines for the penalty of fine:

x x x x

2. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less **at the ratio of one (1) day of suspension from the service to one (1) day fine**[.] (Emphasis supplied)

In relation thereto, Section 49 of the RRACCS provides:

Section 49. Manner of Imposition. – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

a. **The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.** (Emphasis supplied)

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Mariano C. del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice