



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 DEC 20 2021
 BY: P. J. M. T. A. G. O.
 TIME: 4:59

THIRD DIVISION

THE DEPARTMENT OF
 FINANCE-REVENUE INTEGRITY
 PROTECTION SERVICE (DOF-
 RIPS),

G.R. No. 238630

Present:

Petitioner,

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

- versus -

Promulgated:

DIGNO A. ENERIO,

Respondent.

May 12, 2021

Mis-10c Batt

X-----X

DECISION

DELOS SANTOS, J.:

The Case

This is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court seeking the annulment of the Resolution² dated June 29, 2017 and the Order³ dated January 12, 2018 of the Office of the Ombudsman (Ombudsman) in OMB-C-C-16-0298 on the ground that the Ombudsman acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it held that there was lack of probable cause against Digno A. Enerio (respondent) for violations of Section 8 of Republic Act No. (RA) 6713⁴ and Section 7 of RA 3019.⁵

¹ *Rollo*, pp. 3-16.

² *Id.* at 25-29.

³ *Id.* at 70-72.

⁴ Code of Conduct and Ethical Standards for Public Officials and Employees; approved on February 20, 1989.

⁵ Anti-Graft and Corrupt Practices Act; approved on August 17, 1960.

The Factual Antecedents

Respondent started as Clerk II at the Bureau of Customs (BOC) in 1990. Eventually, he was promoted to Administrative Aide IV at the BOC's Customs Intelligence and Investigation Service with gross annual salary of ₱143,844.00.

Petitioner Department of Finance-Revenue Integrity Protection Service (DOF-RIPS), through its Graft Prevention and Control Officers, Jesse S. Lara and Josefel Gadin, initiated a lifestyle check on respondent by examining his assets, liabilities, net worth, business interests, and financial connections during the period of his employment with the BOC. For this purpose, the DOF-RIPS secured from the BOC copies of respondent's Statement of Assets, Liabilities and Net Worth (SALN) and was able to obtain those submitted for the years 1990 to 1999, 2001 to 2004, and 2006 to 2014.

To confirm the veracity of respondent's declaration in his SALNs, the DOF-RIPS also secured documents from the Land Registration Authority (LRA), Land Transportation Office (LTO), Philippine National Police Firearms and Explosives Office (PNP-FEO) and the Department of Trade and Industry (DTI) from which a comparison of the declarations therein with those from respondent's SALNs was made.⁶


The comparison and review of the documents revealed that respondent falsely answered his Personal Data Sheet (PDS) dated May 9, 2014, specifically, the question of whether he had been formally charged with an offense or found guilty of any administrative complaint. The DOF-RIPS also discovered that respondent failed to file his SALN for the years 2005 and 2009 as well as to declare his business interests and all his liabilities.⁷

On July 13, 2016, the DOF-RIPS filed a Joint Complaint-Affidavit against respondent in the Ombudsman. The charges against respondent, as summarized by the Ombudsman, pertain to violations of the following laws, to wit:

1. Article 171 (4) of the Revised Penal Code for falsifying his May 9, 2014 Personal Data Sheet (PDS) by answering "No" to Question No. 37 (a) "Have you ever been formally charged?" and (b) "Have you ever been guilty of any administrative offense?" Respondent was administratively charged before Ombudsman Mindanao in OMB-M-A-08-0506-L for Abuse of Authority, Grave Misconduct,

⁶ *Rollo*, p. 5.

⁷ *Id.* at 6.



Conduct Prejudicial to the Best Interest of the Service and violation of Section 4 of Republic Act (RA) 6713, entitled *Lizada-Aarts v. Enerio*, wherein respondent was sternly warned in Decision dated June 27, 2011, which however was modified in Review Decision dated July 15, 2011, wherein respondent was found guilty of Conduct Prejudicial to the Best Interest of the Service;

2. Articles 171 (4) and 183 of the RPC, Section 7 of RA 3019 and Section 8, RA 6713 for failure of respondent to disclose his and his wife's business interest in E&D Graphics, Inc. in his 1997 SALN;
3. Section 8, RA 6713 for non-filing of his 2005 Statement of Assets, Liabilities and Net [W]orth (SALN) and belated filing of his 2009 SALN; and
4. Section 7 of RA 3019 and Section 8, RA 6713 for failing to disclose his Government [Service] Insurance System loans in his 2002 to 2004, 2006 to 2009, 2013 and 2014 SALNs.⁸

Respondent did not file his counter-affidavit notwithstanding receipt of the orders of the Ombudsman directing him to do so. Accordingly, the Ombudsman proceeded to resolve the case.

The Ruling of the Ombudsman

On June 29, 2017, the Ombudsman issued the herein assailed Resolution,⁹ the dispositive portion of which reads –

WHEREFORE, finding probable cause to charge Administrative Aide IV Digno Avisado Enerio, Customs Intelligence and Investigation Service of the Bureau of Customs for Falsification, let Information for Falsification be filed against him before the appropriate court.

The charges for violation of Sections 8 of RA 6713, Section 7 of RA 3019 and Perjury are dismissed.

SO ORDERED.¹⁰

The Ombudsman held that respondent cannot be indicted for failing to file his 2005 SALN since the crime had prescribed when the complaint was filed on July 13, 2016 ratiocinating that non-filing of SALN prescribes in eight (8) years. Similarly, the Ombudsman found that the criminal infraction committed by respondent for his failure to disclose in his 1997 SALN the business interest he and his wife had in E&D Graphics, Inc. had likewise prescribed, the 1997 SALN being 20 years old. As to respondent's late filing

⁸ Id. at 25-26.

⁹ Id. at 25-29.

¹⁰ Id. at 29.

of his 2009 SALN, the Ombudsman held that respondent cannot be criminally charged for the same since what the law penalizes is the non-filing of SALN.¹¹

The Ombudsman likewise did not find probable cause to prosecute respondent for his failure to declare his Government Service Insurance System (GSIS) loans. The Ombudsman held that respondent's failure to declare the loans he contracted with the GSIS does not necessarily amount to concealment since they were contracted from a government institution and there was no allegation or evidence that the loans were omitted in the SALNs to defraud the government or conceal unexplained wealth.¹²

Consequently, the DOF-RIPS filed a motion for partial reconsideration of the Resolution dated June 29, 2017. However, the same was denied by the Ombudsman in its Order¹³ dated January 12, 2018.

Hence, the DOF-RIPS brought the instant petition for *certiorari*.

The Issue

The main issue for this Court's resolution is whether or not the Ombudsman acted in grave abuse of discretion amounting to lack or excess of jurisdiction in finding lack of probable cause to charge respondent for violations of Section 8¹⁴ of RA 6713 and Section 7¹⁵ of RA 3019.

¹¹ Id. at 27.

¹² Id. at 28.

¹³ Id. at 30-32.

¹⁴ RA 6713. Code of Conduct and Ethical Standards for Public Officials and Employees.

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.

The DOF-RIPS asserts that respondent's offenses have not prescribed since the reckoning point of prescription for violation of RA 6713 and RA 3019 is upon discovery, pursuant to Act No. 3326,¹⁶ as amended, on the premise that the DOF-RIPS could not have known of the false declarations in respondent's SALNs without verifying them from other related

All public officials and employees required under this section to file the aforesaid documents shall also execute, within thirty (30) days from the date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain from all appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their business interests and financial connections in previous years, including, if possible, the year when they first assumed any office in the Government.

Husband and wife who are both public officials or employees may file the required statements jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

- (1) Constitutional and national elective officials, with the national office of the Ombudsman;
- (2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and all national executive officials with the Office of the President.
- (3) Regional and local officials and employees, with the Deputy Ombudsman in their respective regions;
- (4) Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and
- (5) All other public officials and employees, defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

(B) *Identification and disclosure of relatives.* - It shall be the duty of every public official or employee to identify and disclose, to the best of his knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) *Accessibility of documents.* - (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(D) *Prohibited acts.* - It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any purpose contrary to morals or public policy; or
- (b) any commercial purpose other than by news and communications media for dissemination to the general public.

¹⁵ RA 3019. Anti-Graft and Corrupt Practices Act.

SECTION 7. *Statement of assets and liabilities.* - Every public officer, within thirty days after assuming office, thereafter, on or before the fifteenth day of April following the close of every calendar year, 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 of an independent office, with the Office of the President, a true, detailed 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 first statement on or before the fifteenth day of April following the close of the said calendar year. (As amended by RA 3047 and Presidential Decree 677)

¹⁶ An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run; approved on December 4, 1926.

documents.¹⁷ The DOF-RIPS further contends that malice or criminal intent is irrelevant in offenses classified as *mala prohibita*, or those punishable under special laws. Thus, contrary to the resolution of the Ombudsman, the non-disclosure of respondent's GSIS loans in his SALNs is already an offense in itself or *mala prohibita*, regardless of intent.¹⁸ Lastly, the DOF-RIPS avers that the evidence it presented during the preliminary investigation suffices to establish probable cause to indict respondent for the crimes charged.¹⁹

The Ruling of the Court

The petition lacks merit.

In *Public Attorney's Office v. Office of the Ombudsman*,²⁰ the Court held:

Time and again, this Court has consistently stressed that a petition for *certiorari* is a special civil action that may be resorted to only for the limited purpose of correcting errors of jurisdiction, and not errors of judgment. In turn, errors of jurisdiction proceed from grave abuse of discretion, or such capricious and whimsical exercise of judgment tantamount to lack of jurisdiction.²¹

In the instant Petition, such grave abuse of discretion is imputed to the Ombudsman.

The Constitution²² and RA 6770²³ endowed the Ombudsman with wide latitude, in the exercise of its investigatory and prosecutory powers, to pass upon criminal complaints involving public officials and employees.²⁴ The Ombudsman's powers are plenary in nature, designed to insulate it from outside pressure and influence.²⁵

Even so, the plenary nature of the Ombudsman's powers does not place it beyond the scope of the Court's power of review. As explained by the Court in *Public Attorney's Office v. Office of the Ombudsman*:

¹⁷ *Rollo*, pp. 10-12.

¹⁸ *Id.* at 13.

¹⁹ *Id.* at 13-15.

²⁰ 821 Phil. 286 (2017).

²¹ *Id.* at 294-295.

²² CONSTITUTION (1987), Art. XI, Sec. 13, par. 1.

²³ The Ombudsman Act of 1989; approved on November 17, 1989.

²⁴ *Casing v. Ombudsman*, 687 Phil. 468, 475 (2012).

²⁵ See *Angeles v. Gutierrez*, 685 Phil. 183 (2012).

Under its expanded jurisdiction, the Court may strike down the act of any branch or instrumentality of the government, including the Ombudsman, on the ground of grave abuse of discretion. However, for the extraordinary writ of *certiorari* to issue against the actions of the Ombudsman, the petitioner must show that the latter's exercise of power had been done in an arbitrary or despotic manner. Such abuse of power 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.²⁶

After consideration of all the issues and arguments raised in the instant petition, the Court finds that the DOF-RIPS failed to show that the Ombudsman committed grave abuse of discretion in finding that there was no probable cause to hold respondent criminally liable for violation of Section 8 of RA 6713 and Section 7 of RA 3019.

In *Fenequito v. Vergara, Jr.*,²⁷ the Court defined probable cause and the parameters in finding the existence thereof, thus –

Probable cause, for the purpose of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof. The term does not mean “actual or positive cause” nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.

A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed by the suspects. It need not be based on clear and convincing evidence of guilt, not on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt. In determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. He relies on common sense. What is determined is whether there is sufficient ground to engender a well-founded belief that a crime has been committed, and that the accused is probably guilty thereof and should be held for trial. It does not require an inquiry as to whether there is sufficient evidence to secure a conviction.²⁸

The DOF-RIPS contends that the evidence it presented during the preliminary investigation was sufficient to establish probable cause, enough to indict respondent of the offenses charged. According to the DOF-RIPS, to require it to present more evidence than it presented is irregular given the difference in proof required in a preliminary investigation and in the trial itself.²⁹ The DOF-RIPS' suggestion that the Ombudsman dismissed the

²⁶ Supra note 20, at 295.

²⁷ 691 Phil. 335 (2012).

²⁸ Id. at 345-346, citing *Reyes v. Pearlbank Securities, Inc.*, 582 Phil. 505 (2008).

²⁹ *Rollo*, p. 14.

criminal complaints for its failure to present evidence to establish respondent's criminal liability beyond reasonable doubt, is specious.

The Ombudsman dismissed the charge for violation of Section 8 of RA 6713 for respondent's failure to file his 2005 SALN and failure to disclose in his 1997 SALN the business interest he and his wife had in E&D Graphics, Inc. on the ground of prescription, which it rightly did.

The prescriptive period for violation of RA 6713 shall begin to run from the date of commission – the date of filing of the SALN.

For violations defined and punished under special laws, such as RA 6713, the prescriptive period is governed by Act No. 3326, as amended. Section 1 of Act No. 3326 provides –

SECTION 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offences punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) **after eight years for those punished by imprisonment for two years or more, but less than six years;**³⁰ and (d) after twelve years for any other offence punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years: *Provided, however,* That all offences against any law or part of law administered by the Bureau of Internal Revenue shall prescribe after five years. Violations penalized by municipal ordinances shall prescribe after two months.

Violations of the regulations or conditions of certificates of public convenience issued by the Public Service Commission, shall prescribe after two months. (Emphasis supplied)

The reckoning point of the period of prescription under Section 2 of Act No. 3326 states –

³⁰ RA 6713.

SECTION 11. *Penalties.* - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. **Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.** (Emphasis supplied)

SECTION 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

Under Section 2 of Act No. 3326, there are two reckoning points for the counting of the prescription of an offense: 1) the day of the commission of the violation of the law; and 2) if the day when the violation was committed be not known, then it shall begin to run from the discovery of said violation and the institution of judicial proceedings for investigation and punishment.³¹

The first, to the effect that prescription shall “run from the day of the commission of the violation of the law,” is the general rule. We have declared in this regard that the fact that any aggrieved person entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises does not prevent the running of the prescriptive period. The second mode is an exception to the first, and is otherwise known as the discovery rule³² or the “blameless ignorance doctrine.” The “blameless ignorance doctrine was elucidated in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*,³³ thus –

Generally, the prescriptive period shall commence to run on the day the crime is committed. That an aggrieved person “entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises,” does not prevent the running of the prescriptive period. An exception to this rule is the “*blameless ignorance*” doctrine, incorporated in Section 2 of Act No. 3326. Under this doctrine, “the statute of limitations runs only upon discovery of the fact of the invasion of a right which will support a cause of action. In other words, the courts would decline to apply the statute of limitations where the plaintiff does not know or has no reasonable means of knowing the existence of a cause of action.”³⁴

Based on the facts of this case, the prescriptive period of eight (8) years should be counted from the date of commission, *i.e.*, that date of filing of the SALN.

Section 7 of RA 3019 provides –

SECTION 7. *Statement of assets and liabilities.* – Every public officer, within thirty days after assuming office, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or

³¹ *Presidential Commission on Good Government v. Carpio-Morales*, 746 Phil. 995, 1004 (2014).

³² *Del Rosario v. People*, 834 Phil. 419, 429 (2018).

³³ 664 Phil. 16 (2011).

³⁴ *Id.* at 27-28.

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 of an independent office, with the Office of the President, a true, detailed 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 first statement on or before the fifteenth day of April following the close of the said calendar year.

In *Del Rosario v. People*,³⁵ the Court held that the prescriptive period should be reckoned from the time of filing, or non-filing, of the SALN since the Ombudsman and the Civil Service Commission have the reasonable means of ferreting out violations pertaining to the filing of SALNs being the agencies tasked with the primary responsibility of monitoring full compliance with RA 6713. Moreover, RA 6713 specifically provides for the accessibility of SALNs to the public and the availability of the documents for inspection at reasonable hours, or for copying or reproduction, from the time they are filed as required by law.³⁶ Thus, the DOF-RIPS' assertion that the running of the prescriptive period should be reckoned from the time of their discovery of the violations claiming that it could not have known or could not have had reasonable means of knowing respondent's omissions in the subject SALNs, which information was readily available to the public, is simply implausible.

Accordingly, in this case, considering that 10 years had lapsed since the submission of respondent's 2005 SALN, and 18 years had lapsed after the submission of the 1997 SALN, when the complaint against respondent was filed on July 13, 2016, the Ombudsman correctly held that the offenses have already prescribed, pursuant to Section 1 of Act No. 3326.

Verily, the Ombudsman did not act with grave abuse of discretion in dismissing the complaint for violation of RA 6713 with respect to respondent's 1997 and 2005 SALNs.

Neither did the Ombudsman act with grave abuse of discretion when it found no probable cause to charge respondent with violation of RA 6713 and RA 3019 for his failure to disclose his GSIS loans in his SALN. The Ombudsman dismissed the criminal complaint for violation of RA 6713 and RA 3019 for failure of the DOF-RIPS to present sufficient evidence to engender a reasonable belief that respondent committed the acts which constitute the offenses charged.

³⁵ Supra note 32.

³⁶ RA 6713, Section 8.

In finding lack of probable cause to indict respondent for his failure to disclose his GSIS loans in his SALNs, the Ombudsman held thus –

In Letter dated February 26, 2015, the OIC-Manager, NCR Department I of GSIS attached her office's Certification of respondent's loans with GSIS, which shows that he incurred the following loans:

LOAN/CONTRACT NO.	APPROVAL DATE	END TERM	GROSS LOAN AMOUNT
1. 30000828442	11-23-2000	10-1-2007	Php53,504.00
2. 40000068899	3-24-2004	10-1-2007	Php7,022.00
3. 20000045525	5-22-2007	8-1-2010	Php10,000.00
4. 10003745619	9-30-2013	12-1-2019	Php119,670.00

Complaint charges respondent for failing to disclose his GSIS loans in his 2002, 2003, 2004, 2006, 2007, 2008, 2009, 2013 and 2014 SALNs. However, a perusal of the SALNs submitted by complainant will show that respondent respectively declared Loan Nos. 30000828442 and 40000068899 in his 2001 and 2004 SALNs. Although, respondent did not declare both loans in subsequent SALNs, such as the alleged 2003, 2006 and 2007 SALNs, such declarations in his 2001 and 2004 SALN negate complainant's allegation that respondent concealed them.

Respondent did not declare Loan Nos. 20000045525 and 10003745619 in his 2007 and 2013 SALNs or the years he had acquired them, as well as in subsequent SALNs for 2008, 2009 and 2014. However, RAs 6713 and 3019, in requiring the filing of a complete, truthful, and sworn SALN, seek to curtail the acquisition of unexplained wealth or concealment of accumulated wealth that is manifestly disproportionate to the income of the public employee. In this case, **the non-declaration of the two loans does not necessarily amount to concealment since they were contracted from GSIS, a government institution, and there was no allegation or evidence that the loans were omitted in the SALNs to defraud the government or conceal unexplained wealth.**³⁷ (Emphasis supplied)

What the laws on SALN aim to curtail is the acquisition of unexplained wealth or concealment of accumulated wealth.

In *Daplas v. Department of Finance*,³⁸ the Court explained:

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

³⁷ *Rollo*, p. 28.

³⁸ 808 Phil. 763 (2017).

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.³⁹

On the other hand, Section 7 of RA 3019, which directs full disclosure of wealth in the SALN, is a means of preventing unlawful acquisition of wealth and is aimed particularly at minimizing if not altogether curtailing the opportunities for official corruption and maintaining a standard of honesty in the public service. By the SALN, the public are able to monitor movement in the fortune of a public official; it serves as a valid check and balance mechanism to verify undisclosed properties and wealth.⁴⁰

The Court held in *Office of the Ombudsman v. Racho*:⁴¹

Hence, a public official or employee who has acquired money or property manifestly disproportionate to his salary or his other lawful income shall be *prima facie* presumed to have illegally acquired it.

It should be understood that what the law seeks to curtail is “*acquisition of unexplained wealth*.” Where the source of the undisclosed wealth can be properly accounted, then it is “*explained wealth*” which the law does not penalize.⁴²

In this case, the DOF-RIPS has not even alleged, much less presented, evidence of a manifest disproportion of respondent’s legal income *vis-à-vis* his assets. What the DOF-RIPS mainly argues is that malice or criminal intent is irrelevant in offenses classified as *mala prohibita*. Without question, the violations imputed against respondent pertain to special laws, as such, these belong to a class of offenses known as *mala prohibita*. Unlike in acts *mala in se* where intent governs, in acts *mala prohibita*, the only inquiry is, has the law been violated? When an act is illegal, the intent of the offender is immaterial.⁴³ Nonetheless, as aptly ratiocinated out by the Ombudsman, respondent’s failure to disclose his GSIS loans does not necessarily amount to concealment since they were contracted from a government institution. Documents evidencing loans granted by the GSIS are official records, therefore, these are accessible by the public for full disclosure, subject to reasonable regulations that the latter may promulgate relating to the manner and hours of examination, to the end that damage to or loss of the records may be avoided, that undue interference with the duties of the custodian of the records may be prevented and that the right of other persons entitled to

³⁹ Id. at 771.

⁴⁰ *Ombudsman v. Valeroso*, 548 Phil. 688, 697-698 (2007).

⁴¹ 656 Phil. 148 (2011).

⁴² Id. at 161.

⁴³ Cf. *Tan v. Ballena*, 579 Phil. 503 (2008).

inspect the records may be insured.⁴⁴ Hence, given the nature of the documents evidencing respondent's GSIS loans to be public, respondent's failure to disclose the said liability is not tantamount to the non-disclosure that is contemplated in the laws on SALN.

The Ombudsman has the discretionary authority to determine probable cause.

In *Villarosa v. Ombudsman*,⁴⁵ the Court held:

This Court's consistent policy has been to maintain non-interference in the determination by the Ombudsman of the existence of probable cause. Since the Ombudsman is armed with the power to investigate, it is in a better position to assess the strengths or weaknesses of the evidence on hand needed to make a finding of probable cause.⁴⁶

The Court further explained in *Presidential Commission on Good Government v. Desierto*:⁴⁷

Settled is the rule that the Supreme Court will not ordinarily interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise. Said exercise of powers is based upon his constitutional mandate and the courts will not interfere in its exercise. The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman, but upon practicality as well. Otherwise, innumerable petitions seeking dismissal of investigatory proceedings conducted by the Ombudsman will grievously hamper the functions of the office and the courts, in much the same way that courts will be swamped if they had to review the exercise of discretion on the part of public prosecutors each time they decided to file an information or dismiss a complaint by a private complainant.⁴⁸

Thus, if the Ombudsman, using professional judgment, finds the case dismissible, the Court shall respect such findings, unless the exercise of such discretionary powers is tainted by grave abuse of discretion.⁴⁹

Accordingly, as no grave abuse of discretion can be attributed to the Ombudsman in finding lack of probable cause against respondent for

⁴⁴ *Valmonte v. Belmonte, Jr.*, 252 Phil. 264, 278 (1989).

⁴⁵ G.R. No. 221418, January 23, 2019.

⁴⁶ *Id.*

⁴⁷ 553 Phil. 733 (2007).


⁴⁸ *Id.* at 742-743.

⁴⁹ *Public Attorney's Office*, supra note 20, at 300, citing *Presidential Commission on Good Government v. Desierto*, 563 Phil. 517, 525-526 (2007).

violation of Section 8 of RA 6713 and Section 7 of RA 3019 in this case, the Court will defer to the sound judgment of the Ombudsman.

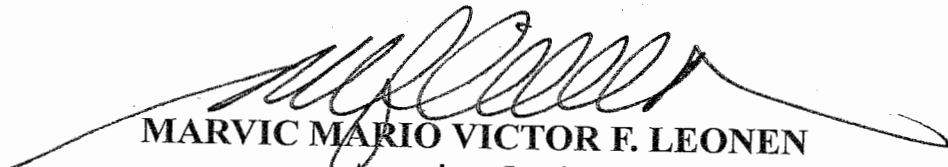
WHEREFORE, the instant Petition for *Certiorari* is **DISMISSED** for lack of merit. The assailed Resolution dated June 29, 2017 and the Order dated January 12, 2018 of the Office the Ombudsman in OMB-C-C-16-0298 are hereby **AFFIRMED**.

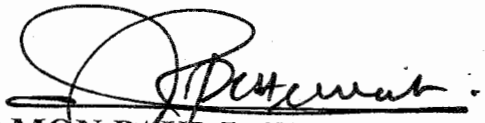
SO ORDERED.

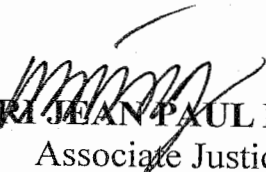


EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


JHOSEP LOPEZ
Associate Justice

ATTESTATION

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


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

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice