G.R. No. 237428 (*Republic of the Philippines, represented by Solicitor General Jose C. Calida v. Hon. Chief Justice Maria Lourdes P. A. Sereno).*

Promulgated:

May 11, 2018

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SEPARATE CONCURRING OPINION

PERALTA, *J.*:

Accountability of public officials is an essential attribute of a democratic and republican state, a necessary corollary of the recognition that sovereignty resides in the people and all government authority emanates from them.[1] And, in a government of laws and not of men, nobody is above the law, no matter how high he or she might be.

Various means and remedies are provided in the Constitution and statutes by which those in the government are held to answer for whatever may be seen as a betrayal of the people's trust, ranging from impeachment to civil, criminal and administrative sanctions. This applies to all, from the lowest to the highest officials of the land, assuming greater importance and relevance the higher the official is. This truism is further accentuated when the official sought to account for and justify his or her continued stay in office occupies the pinnacle of a branch whose members are required to be persons of proven competence, integrity, probity and independence.[2]

Further, the provisions of the Basic Law should be read in such a way as to effectuate the constitutional design of making public officials accountable to the sovereign. Impeachment should not be seen as an exclusive and preclusive process which would prevent other means of removing someone clearly undeserving of continued occupancy of a public office, otherwise the ideal would be subverted by a reading that would defeat the underlying principle, an exaltation of the literal over the spirit. The method to

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[1] "The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them." (Article II, Section I, Constitution)

[2] "A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence." (Article VIII, Section 7(3), Constitution).

exact accountability should never be allowed to become the very means to avoid it.

I concur with the *ponencia* of Honorable Associate Justice Noel Gimenez Tijam in finding that respondent Chief Justice Maria Lourdes P. A. Sereno is unlawfully holding and exercising the Office of the Chief Justice of the Supreme Court, and should be ousted and excluded therefrom.

Filing of Statement of Assets, Liabilities and Net worth (*SALN*) is a constitutional and statutory obligation of public officers and employees. Submission of SALN is a pre-requisite of the Judicial and Bar Council (*JBC*) for applicants to the Judiciary who come from government service. Its significance in determining the integrity of applicants to the Judiciary came to the fore when former Chief Justice Renato C. Corona was impeached for failure to properly declare assets in his SALNs. Based on the certifications issued by the University of the Philippines Human Resource Department Office and the Office of the Ombudsman Central Records Division, respondent failed to file her SALNs for the years 2000, 2001, 2003, 2004, 2005 and 2006. When respondent deliberately concealed from the JBC the fact that she failed to file her said SALNs while she was a Professor at the University of the Philippines College Law, she demonstrated that her integrity is dubious and questionable. Therefore, her appointment as an Associate Justice in August 16, 2010 is void *ab initio,* for she lacks the constitutional qualification of "proven integrity" in order to become a member of the Court.

Before delving into the substantive issues, I will first explain why I am not inhibiting from this case. In the *Ad Cautelam* Respectful Motion for Inhibition (Of Hon. Associate Justice Diosdado M. Peralta) in the Petition for *Quo Warranto* filed by the Republic of the Philippines, represented by Solicitor General Jose C. Calida, against respondent, it raises the following grounds for my inhibition:

A.

The Chief Justice, with due respect, has reasonable grounds to believe that Justice Peralta has professed actual bias against the Chief Justice concerning her qualification to be appointed as Chief Justice.

B.

As the Acting *Ex-Officio* Chairperson of the Judicial and Bar Council ("JBC") when the Chief Justice was nominated for appointment as Chief Justice, Justice Peralta would have personal knowledge of disputed evidentiary facts concerning the proceedings.

C.

Justice Peralta served as a material witness in the controversy.

D.

Justice Peralta's participation in these proceedings would violate the Chief Justice's constitutional right to due process.

The Motion for Inhibition must be denied for lack of merit.

The Chief Justice failed to prove by clear and convincing evidence Justice Peralta's supposed actual bias against her concerning her qualification to be appointed as a Chief Justice

Contrary to respondent's view that Section 5(a),[3] Canon 8 of the New Code of Judicial Conduct, which mandates that the inhibition of a judge who has "actual bias or prejudice against a party" is a compulsory ground for inhibition, the said ground is merely voluntary or discretionary under the Rules of Court and the Internal Rules of the Supreme Court, which are the applicable rules governing inhibition in this petition for *quo warranto*. Thus:

Rule 137

Disqualification of Judicial Officers

Section 1. Disqualification of Judicial Officers. – No Judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity of affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

Any judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reason other than those mentioned above.

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[3] Section 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide a matter impartially. Such proceedings include, but are not limited to instances where:

(a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings.

Rule 8

Inhibition and Substitute of Members of the Court

Section 1. *Grounds for Inhibition.* – A Member of the Court shall inhibit himself of herself from participating in the resolution of the case for any of these or similar reasons:

a) the Member of the Court was the ponente of the decision or participated in the proceedings before the appellate or trial court;
b) the Member of the Court was counsel, partner or member of law firm that is or was the counsel in the case subject of Section 3(c) of this rule;
c) the Member of the Court or his or her spouse, parent or child is pecuniarily interested in the case
d) the Member of the Court is related to either party in the case within the sixth degree of consanguinity or affinity, or to an attorney or any member of a law firm who is counsel of record in the case within the fourth degree of consanguinity or affinity;
e) the Member of the Court was executor, administrator, guardian or trustee in the case; and
f) the Member of the Court was an official or is the spouse of an official or former official of the government agency or private agency or private entity that is a party to the case, and the Justice or his or her spouse has reviewed or acted on any matter relating to the case.

A Member of the Court may in the exercise of his or her sound discretion, inhibit himself of herself for a just or valid reason other than any of those mentioned above.

The instances under the first paragraph of Section 1 of Rule 137 of the Rules of Court conclusively presume that judges cannot actively and impartially sit in a case, whereas the second paragraph, which embodies voluntary inhibition, leaves to the discretion of the judges concerned whether to sit in a case for other just and valid reasons, with only their conscience as guide.[4] Similar to Rule 137, there are also two kinds of inhibition under the Internal Rules of the Supreme Court: Section 1(a) to (f) of Rule 8 specifically enumerates the compulsory grounds for inhibition, while the second to the last paragraph provides for a catch-all ground for voluntary inhibition.

Based on the exclusive list of compulsory grounds for inhibition under the Rules of Court and the Internal Rules, it is apparent that I am not disqualified from hearing and deciding the instant petition for *quo warranto*. Verily, respondent is seeking my inhibition on voluntary or discretionary grounds of actual bias, personal knowledge of disputed evidentiary matters

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4 *Pagoda Philippines v. Universal Canning*, G.R. No. 160966, October 11, 2005.

concerning the proceedings, and for having served purportedly as a material witness on the matter in controversy.

Citing my testimony before the Committee on Justice of the House of Representatives, respondent insists that I should inhibit from the case because I appear to have expressed the view that the Chief Justice should have been disqualified from nomination for the position of Chief Justice by virtue of her failure to submit to the JBC her Statement of Assets, Liability and Net Worth (*SALN*) for the years she was employed as a Professor of the U.P. College of Law Respondent claims that my apparent bias seems to have arisen from the belief that it was respondent who caused the exclusion of my wife, Court of Appeals (*CA*) Associate Justice Fernanda Lampas Peralta, from the list of applications for the position of CA Presiding Justice. Respondent thus concludes that I may have prejudged the merits of her petition for *quo warranto* and that I may have already formed an opinion that she should have been disqualified to be nominated as Chief Justice.

Respondent's contentions are unavailing.

It is well settled that bias and prejudice, to be considered valid reasons for the voluntary inhibition of judges, must be proved with clear and convincing evidence.[5] Bare allegations of their partiality will not suffice. It cannot be presumed, especially if weighed against the sacred oaths of office of magistrates, requiring them to administer justice fairly and equitably — both the poor and the rich, the weak and the strong, the lonely and well-connected.[6] There has to be a showing of acts or conduct clearly indicative of arbitrariness or prejudice before the Court can brand them with the stigma of bias or partiality.[7] Mere suspicion is not enough.[8] Extrinsic evidence must further be presented to establish bias, bad faith, malice or corrupt purpose.[9] Applying the foregoing principles, I maintain that respondent failed to establish that I have actual bias concerning her qualification to be appointed as Chief Justice.

Respondent's allegation of actual bias and impartiality has been thoroughly addressed in my testimony during the January 15, 2018 Congressional Hearing to the effect that I have been very supportive of the Judiciary reforms introduced by the Chief Justice even if she suspects that I am one of those behind her impeachment. Thus:

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5 *Dimo Realty & Development, Inc. v. Dimaculangan,* 469 Phil. 373 (2004).
6 *Cruz v. Judge Iturralde*, 450 Phil. 77 (2005).
7 *Barnes v. Reyes*, 614 Phil. 299 (2009).
8 *Gochan v. Gochan*, 446 Phil. 433 (2003).
9 *Barnes v. Reyes, supra.*

Deputy Speaker Ferdinand Hernandez: And follow-up question, your presence here... because before, when it was Justice De Castro, she was accused of being biased ... being emotional ... now I think there are more than six of you testifying before this body, I don't think you are biased against Chief Justice Sereno by coming over. So, is there like any... Do you have any grudges against the Chief Justice that's why you came here or is it because ... well you've already mentioned that you respect the independence of this body. Kasi ayoko ... kasi palalabasin na naman mamaya na kaya nag-appear si Justice Peralta, Justice Bersamin, Justice Martires, kasi biased sila, kasi interested sila na in the future they will be selected as a Chief Justice. I want your opinion.

Justice Diosdado M. Peralta: Alam po ninyo, kung ako po ... If I will base my answer from a news item sometime October 24, lumalabas po ako biased eh at saka mayroon akong grudge kay Chief Justice. If you read ... sa newspaper report sa October 24 eh. Kasi po ang nakalagay dun, mayroon daw akong grudge kay Chief Justice kasi from the beginning, nasira daw yung plano kong maging Chief Justice eh. Kasi after Justice Carpio, ako na po ang susunod. Ganun po ang nakalagay. But magandang tanong po iyan para ma-explain ko yan ... so that questions will no longer be asked about me being biased or holding grudge.

Alam po ninyo, yung sa answer ni Chief Justice po, yung pinagyayabang niya na Small Claims at Continuous Trial, diyan sa Supreme Court alam po nila kung sino ang Chairman ng Committee that amended yung Small Claims. She personally chose me to chair the Committee to revise the Small Claims and personally chose my wife to head the Technical Working Group. Opo, totoo po yun. And ang masama pa dun, nung dumating siya doon, parang reluctant siyang lumapit sa amin, kasi ang dumating sa kanya, kaming mga senior eh we will not cooperate. Inaraw-araw po ako niyan. Three of her lawyers, Atty. Oliveros, Atty. Mayuga, Atty. De Dumo, to please accept some special assignments ... in spite of my busy schedule po, I accepted. Yung sa Small Claims po, hindi po sa akin nagumpisa yan. Yung Rule on Small Claims, that was introduced by former Chief Justice Reynato Puno. It was piloted in 2008 and it was applied sa whole ... lahat na po sa 2010. x x x

x x x But you know, like any other rules, ang rules po ay work in progress, as they are, nag-eevolve yan ... So this was the problem in 2015 ... The World Bank was considering a factor in determining how a country is doing ... ease of doing business in the Philippines. Tinitingnan nila ang ginagawa ng judiciary sa ease of doing business. And therefore, one of those that they considered is sa small claims ... And then my wife was sent by the Chief Justice March of 2015 to attend a seminar in South Korea precisely to ... discuss yung threshold amount ng small claim. Ang suggestion po nila dun ay 5,000 dollars. If you multiply 5,000 dollars by 50, then it becomes 250,000. Ang threshold amount ng small claim was 100,000 so there is a need to increase to 200,000. Ngayon po, ang purpose ni Chief Justice Reynato Puno noon sa small claims is to afford better access of the under privileged sa small claims ... But nagkakaroon po kami ng problema noon based on the data. When the Technical Working Group was created, sabi ko ... before we introduce amendments, let us first determine kung ano ang problema... Most of the cases were filed in Metro Manila. So if the

respondent poor fellow is from Davao, then he will have to come to Manila or to Makati to answer yung claim. So sabi ko we have to study how to resolve this problem. Eh we discover, in-introduce namin diyan, kasi po sa regular rules sa venue, ang venue po kasi sa civil cases, it's either plaintiff's residence or defendant's residence at the choice of the plaintiff or the venue as stipulated in the contract. So na discover po naming lahat ng lenders ng money, karamihan ng opisina nila sa Makati. So dun nila pina-file, but yung respondent ang layo po. Yun kaya po in-introduce namin yung venue. So what is happening now in Small Claims ... sabi ng Chief Justice ... you know in Small Claims, there were 27,000 filed during the first half of 2017 and there are only 9 cases pending at the time. Biro mo yun, tapos sasabihin ng Chief Justice sa akin ay may grudge daw ako sa kanya. Ang hirap po gumawa ng rules. Mas maganda gumawa ng decision, yung rules ang hirap gumawa. Iyan po isa.

Pangalawa, sinabi niya yung continuous trial has been solving the problem of congestion sa husgado. For the information of everybody, sa data namin 77% of the cases pending before the courts ay criminal cases. So what happened with the problem. Justice Dado can you help me on the continuous trial because I heard you were a former prosecutor and a former judge. Sabi ko so what's the problem. Can you come up with rules, guidelines to improve yung system. Sabi ko yes, I want to help. Ano nangyari, she appointed me as the Chairman of the Committee and appointed my wife again as Technical Working Group. Tapos for so many months, alam niyo po sa En Banc, ang hirap po makalusot ang isang rule ... Ganito ginawa namin. I think sometime 2015 August pi-nilot testing po namin sa 52 trial courts sa Metro Manila. One is kung viable yung ginawa naming rules. Number two, to determine the causes of delay. Number 3 remedies. Na-determine namin, pi-nilot testing namin. Then I think August 2015 natapos na po yun. And then nagbigay ng data yung Developmental Partners, yung ABA-ROLI and Asia Foundation, they presented and showed to us, sabi nila, Justice yung pilot mo ng continuous trial ito po ang improvement, malaki po ang improvement. So I was tasked again to revise, the same technical working group, we went around visiting all courts in Metro Manila. Talaga po minsan, masakit yung sinasabi na mayroon akong grudge sa kanya. I have to disguise as a litigant so that I will know what are the causes of delay. So I submitted my work, the work of the Technical Working Group. I think before the end of 2016, and then it was deliberated upon by the Supreme Court... Basta nakalagay sa En Banc yan ... naka agenda yan ... you expect 14 people interpellating you. Mayroon pong point na ayaw ko na. Kasi napapabayaan ko na yung trabaho ko. But on our last session sa Baguio nung April 28, sinabi ko na pag hindi pa ma-aprubahan ng en banc, ayaw ko na. Nag-agree sila so we made it effective September 1. Mind you po before the effectivity of continuous trial September 1, starting June, I went around all over the Philippines almost weekly, Thursday and Friday. I am the only lecturer starting 8:30 in the morning up to 5:00 in the afternoon, standing. Just to explain, ang haba nun. Tapos dyinaryo nila sa akin, sabi tumanggap daw ako 500 million kay Governor Imee Marcos dun sa decision ko na allowing the burial. Kaya nasasabi ko po yan, pag sinabing biased o grudge ... ako wala akong ... I respect the Chief Justice kaya lahat ng in-assign sakin ay tinanggap ko.

You know there was an incident, nandun kami sa Baguio, I was summoned in the evening, pinakita sa akin yung data ... sabi sa akin, Justice Dado, ikaw pala ang top performer sa judicial at administrative ... sabi sa

akin, never in the history na ang Justice ng Supreme Court na naka-decide ng more than 600 cases in a year's time, sabi sa akin. And the following day, papunta na ako sa session, hindi pa nag- start ang session, ay ini-istorya na niya na ako. In spite of that, June next week, I will be in Laoag City, Thursday and Friday. The week after that I will be in Tuguegarao. The week after that I will go to Davao. Just to lecture on continuous trial. Ganun po yun eh. Kaya sabi niya ... wala akong grudge sa kanya. All these years, binigay ko lahat todo. Misis ko nagagalit na nga sa akin ... Biro mo, tumanggap ako ng 500 thousand, may grudge daw ako, ako pa at isang justice nagplano na impeach si Chief Justice. Biro mo yun. Andyan nakalagay sa news report. Ang masakit po dito, when this came out October 24, I was in Davao the following day, lecturing before more than 200 lawyers about continuous trial. Biro mo yung mukha ko dun, tinitingnan, itong nag-le-lecture, tumanggap ng 500 thousand, siya nagpa-plano i-impeach si Chief Justice. Masakit po sa akin yan. It's good that you asked that question.

Deputy Speaker Ferdinand Hernandez: In other words, you have nothing to gain personally?

Justice Diosdado M. Peralta: Susmaryosep, wala po, hindi ko po ugali yun. You ask my colleagues ... Masaya ang Supreme Court kapag andiyan ako ... ako minsan nagbi-break ng heated argument. Tanungin niyo po si Justice Martires ... kay Justice Bersamin, pag wala po ako dun, malungkot po sila. Wala akong kaaway. Everyone is my friend. Kaya ang dami kong kaibigan ...

In spite of the news report, you ask my colleagues if inaway ko si Chief Justice because of that, hindi ko po ugali yun, never na inaway ko si Chief Justice, ako inaaway marahil, ako po ang patakaran ko po if they throw stones against me, I will throw bread. Kristyano po tayo, wala akong kaaway ... Kaya po kapag sinasabi na mayroon akong grudge sa kanya, wala po. In spite of this report, wala po. Bakit? Itong October 24 na publication ... I still went around the Philippines. Nagpunta pa ako sa Tacloban for two days to lecture. The following hanggang December 14, nag-lecture pa ako outside Metro Manila. Kung galit ako sa kanya ... ibigay mo na sa iba yan, madami pa ang mas magaling sa akin. Ganun sana ginawa ko pero hindi. Kaya sabi ko next week I will be in Laoag for two days. The following week, I will be in Tuguegarao for two days, the week after, I will be in Davao lecturing on continuous trial. Now you ask me, ano naman nangyari sa continuous trial mo na ginagawa, nakita mo naman yung answer ni Chief Justice: ito yung isang reform programs ko, na nag-solve ng problem on congestion. Ganun lang po ang masasabi ko. Pasensiya na lang po mahaba po yung sagot ko. Para when you reach the time you will ask questions and some others that I will discuss, ay nasagot ko na po yung bias at saka grudge. Ganun lang po. Thank you very much po for asking the question.[10]

As to the supposed axe to grind against respondent for my wife's exclusion from the shortlist for the post of CA Presiding Justice, I also clarified during the February 12, 2018 Congressional Hearing that I have already moved on from the issue, and that I was testifying because I want to

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[10] Unofficial transcript of the Congressional Hearing on January 15, 2018

protect the prospective applicants to the Judiciary, and to maintain the constitutional mandate that only the best and qualified candidates should be recommended by the JBC.

In saying that "*had I been informed of this letter dated July 23, 2012, and a certificate of clearance, I could have immediately objected to the selection of the Chief Justice for voting because this is a very clear deviation from existing rules that if a member of the Judiciary would like ... or ... a candidate would like to apply for Chief Justice, then she or he is mandated to submit the SALNs,*"[11] I merely made a hypothetical statement of fact, which will not necessarily result in the disqualification of respondent from nomination, if it would be proven that she had indeed filed all her SALNs even before she became an Associate Justice in 2010.

There is nothing in the statement that manifests bias against respondent *per se* as the same was expressed in view of my function as then Acting *Ex-Officio* Chairperson of the JBC, which is tasked with determining the constitutional and statutory eligibility of applicants for the position of Chief Justice. It would have been but rational and proper for me or anyone else in such position to have objected to the inclusion of any nominee who was not known to have met all the requirements for the subject position. The significance of his responsibility as Acting *Ex-Officio* Chairperson of the JBC gave rise to the imperative to choose the nominee for Chief Justice who was best qualified for the position, *i.e.,* one who must be of proven competence, integrity, probity and independence. Be it stressed that when the hypothetical statement was made, there was no petition for *quo warranto* yet, so I cannot be faulted for pre-judging something that is not pending before the Court.

Besides, in my honest view, what is being assailed in this petition for *quo warranto* is respondent's failure to prove her integrity on the ground that she deliberately concealed from the JBC the material fact that she failed to file her SALNs for the years 2000, 2001, 2003, 2004, 2005 and 2006, among others, even before she became an Associate Justice of the Supreme Court in 2010. Thus, whether hypothetical or not, my statement that she should have been disqualified to be nominated as Chief Justice, is not relevant or material to this petition for *quo warranto.*

For one, in connection with her application for Associate Justice in July 2010, what the Office of Recruitment, Selection and Nomination (*ORSN*) received on July 28, 2010 from respondent was her un-notarized 2006 SALN dated July 2010.[12] However, in a recent letter[13] dated February 2, 2018

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[11] Unofficial transcript of the Hearing of the Committee on Justice, 12 February 2018/JEG/IV-2. Emphasis added.

[12] Petitioner's Memorandum, Annex "E."

[13] Attached to repondent's *Ad Cautelam* Manifestatio/Submission as Annex "27."

addressed to the ORSN, she explained that such SALN was really intended to be her SALN as of July 27, 2010. During the Oral Arguments, respondent further explained that she merely downloaded the SALN form, and forgot to erase the year "2006" printed thereon and that she was not required by the ORSN to submit a subscribed SALN. Assuming that her said SALN is for 2010, it should have been filed only in the following year (2011) as the calendar year 2010 has not yet passed, and her appointment would still be in August 16, 2010. She cannot also claim that said SALN is for 2009 because she was still in private practice that time.

For another, respondent also failed to file her SALN when she resigned from the University of the Philippines (U.P.) in 2006 in violation of R.A. No. 6713.[14] Accordingly, whatever I testified on during the Congressional Hearings has no bearing on this petition because my concern is her qualification of proven integrity before she even became an Associate Justice in 2010, and not when she applied for Chief Justice in 2012.

Moreover, I merely testified based on my personal knowledge of relevant facts and based on authentic records, as evidenced by the minutes of the JBC *En Banc* Special Meeting on July 20, 2012. The minutes of the JBC meeting indicate that respondent had not submitted her SALNs for a period of ten (10) years from 1986 to 2006, and that JBC *Ex-Officio* Member Senator Francis Joseph G. Escudero mentioned that Justice Sereno was his professor at U.P. and that they were required to submit SALNs during those years.[15] On the matter of candidates with incomplete documentary requirements, I had even suggested that the JBC could ask the nominee during the interview as to the reasons for their non-compliance.[16] However, Senator Escudero moved that the motion of JBC regular Member Justice Aurora Santiago Lagman to extend the deadline to submit the requirements be applied to all candidates and that the determination of whether a candidate has substantially complied with the requirements be delegated to the Executive Committee (*Execom*).[17] Senator Escudero further moved that any candidate who would still fail to complete the requirements at the close of office hours on Monday, July 23, 2012 would be excluded from the list to be interviewed and considered for nomination. Nevertheless, they would be included if in the determination of the Execom he or she has substantially complied.[18]

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[14] *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.*

[15] Minutes (JBC Special En Banc Meeting) 11-2012, July 20, 2012, Friday, *En Banc* Conference Room, New Supreme Court Building, 9:00 A.M., p. 11.

[16] *Id.* at 10.

[17] *Id.* at 11.

[18] *Id.* at 10-11.

As confirmed by JBC Regular Member Atty. Maria Milagros N. Fernan-Cayosa and then ORSN Chief Atty. Richard Pascual during the Congressional Hearings, I was never furnished a copy of respondent's July 23, 2012 letter, which was received only by the offices of the JBC Regular Members. Having in mind that the Execom is entitled to the presumption of regularity in the performance of its duty, I relied in good faith that the Execom would do its job to ensure that those candidates qualified to be nominated in the shortlist have complete documentary requirements, including the SALNs. I also relied on the ORSN Report dated July 24, 2012 on the Documentary Requirements and SALN of Candidates for the Position of Chief Justice of the Philippine, which stated that respondent's requirements were already complete when the public interview of candidates commenced on even date. Clearly, I could not have exempted respondent from complying with the requisite submission of SALNs, because the duty to determine whether a candidate has substantially complied, was delegated to the Execom due to time constraints, *i.e.*, the July 20, 2012 JBC Special Meeting and the July 23, 2012 deadline for submission of documentary requirements. This is the proper context as to why I made a hypothetical statement to the effect that I would have objected to the July 23, 2012 letter of respondent, requesting that she be exempted from the SALN requirement.

Despite being the Acting Ex-Officio Chairperson of the JBC when the Chief Justice was nominated for appointment as Chief Justice, Justice Peralta has no personal knowledge of disputed evidentiary facts concerning the proceedings

Contrary to respondent's contention, I have no personal knowledge of the disputed facts concerning the proceedings (*e.g.,* the matters considered by the members of the JBC in preparing the shortlist of nominees). As can be gathered from the Minutes of the July 20, 2012 JBC *En Banc* Special Meeting, it is the ORSN and the JBC Execom which was given the duty to determine the completeness of the documentary requirements, including the SALNs, of applicants to judicial positions. Suffice it to state that because of my usual heavy judicial workload, it is inconceivable and impractical for me, as then Acting *Ex-Officio* JBC Chairperson, to examine the voluminous dossier of several applicants and determine whether they have complete documentary requirements.

Equally noteworthy is the fact that there are no disputed evidentiary facts concerning the proceedings before the Congress or the Court. In the July 24, 2012 Report of ORSN regarding the Documentary Requirements and SALNs of Candidates for the Position of the Chief Justice of the Philippines,

then Associate Justice Maria Lourdes P. A. Sereno was noted to have "Complete Requirements" with notation "Letter 7/23/12 — considering her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those file." Despite her employment at the U.P. College of Law from November 1986 to June 1, 2006, the records of the U.P. Human Resources Department Office (*HRDO*) only contain her SALNs filed for 1985, 1990, 1991, 1993, 1994, 1995, 1996, 1997 and 2002,[19] but her SALNs for 2000, 2001, 2003, 2004, 2005 and 2006 are not on file,[20] whereas the records of the Central Records Division of the Office of the Ombudsman reveal that no SALN was filed by respondent from 2000 to 2009, except for the SALN for 1998. Respondent neither disputes the foregoing facts nor the authenticity and due execution of the foregoing documents.

Significantly, when I was Acting *Ex-Officio* Chairperson in 2012, I have had no personal knowledge that respondent had not filed her SALNs for 2000, 2001, 2003, 2004, 2005 and 2006. I may have had access to her SALNs for 2009, 2010 and 2011, but it was only during the Congressional Hearings that it was discovered that she failed to file her SALNs for the period between 2000-2006, as borne by the Certification issued by the Office of the Ombudsman and the U.P. HRDO, pursuant to *subpoena duces tecum* issued by the Committee on Justice.

It is likewise important to distinguish the proceedings before the Committee on Justice of the House of Representatives and the *quo warranto* petition pending before the Court. The issue in the petition for *quo warranto* is whether respondent unlawfully holds or exercises a public office in view of the contention of the Solicitor General that her failure to file SALNs, without lawful justification, underscored her inability to prove her integrity which is a constitutional qualification to become a member of the Supreme Court. In contrast, the issue in the Congressional Hearings where I was invited as a Resource Person was the determination of probable cause to impeach the respondent where her qualifications prior to her appointment as Chief Justice was never an issue nor raised as ground for impeachment.

As a mere Resource Person, Justice Peralta testified with written authority from the En Banc, and answered clarificatory questions based on his personal knowledge of facts and authentic records

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19 Petitioner's Memorandum, Annex "O."

20 *Id.*, Annex "B."

It bears emphasis that I attended the Congressional Hearings not to testify against the respondent, but only as a Resource Person on account of my having been the Acting *Ex-Officio* Chairperson of the JBC at the time respondent was nominated. I responded to the invitation of the Chairperson of the Committee on Justice of the House of Representatives out of courtesy and deference to a co-equal branch of the government, which has the exclusive power to initiate all cases of impeachment.[21] In the letter dated January 8, 2017, the said Committee invited me to attend the hearing on January 15, 2017, at the Nograles Hall, South Wing Annex, House of Representatives, Quezon City, to answer clarificatory questions relative to the allegations in the verified complaint for impeachment that the Chief Justice:

> (1) Manipulated and delayed the transfer of Maute cases outside Mindanao:
> (2) Manipulated the JBC shortlist in several instances, and influenced the four (4) regular members of the JBC;
> (3) Lied and made it appear that several justices requested that they do away with the voting for the recommendees to the Supreme Court; and
> (4) All other allegations involving administrative matters and internal rules and procedures of the Supreme Court.

Asked regarding the foregoing issues, I replied with pertinent and relevant answers based on my personal knowledge of facts and authentic documents. I testified within the bounds of the authority given by the *En Banc* in A.M. No. 17-11-12-SC dated January 10, 2018. If indeed I harbored grudge and animosity towards respondent, then I could have easily gone beyond the scope of my authority by volunteering information on other issues subject of the impeachment hearings of which I have personal knowledge. Besides, whether or not I will be a material witness in the impeachment proceedings would be for the prosecution panel to eventually decide, and the grounds for impeachment had nothing to do with that for *quo warranto.*

Justice Peralta's participation in the quo warranto proceedings will not violate the Chief Justice's constitutional right to due process because there are no grounds proven for his compulsory and discretionary inhibition

My participation in the Congressional Hearings will not violate respondent's right to due process because it was never shown that I am disqualified on either compulsory or voluntary grounds for inhibition under the Rules of Court and the Internal Rules of the Supreme Court. Respondent's allegations of actual bias and partiality are unsubstantiated, conjectural, and not founded on rational assessment of the factual circumstances on which the

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[21] Section 3(1), Article XI, Constitution.

motion to inhibit is anchored. When I made the statements before the Congressional Hearings for the determination of probable cause to impeach the respondent Chief Justice, no petition for *quo warranto* was filed yet before the Court, hence, I could not have pre-judged the case. It bears stressing again that the genuine issue in this petition for *quo warranto* is not the eligibility of respondent to be appointed as Chief Justice in 2012, but her qualification of "proven integrity" when she was appointed as an Associate Justice in 2010 despite concealment of her habitual failure to file SALNs. Of utmost importance is the fact that I, like every other member of the Supreme Court, have never let personal reasons and political considerations shroud my judgment and cast doubt in the performance of my sworn duty, my only guide in deciding cases being a clear conscience in rendering justice without fear or favor in accordance with the law and the Constitution.

I will now discuss the substantive issues in the case.

An impeachable public officer may be removed through a petition for quo warranto if the invalidity of his or her appointment stems from the qualifications required by the Constitution

There is no dispute that the Supreme Court has original jurisdiction over a petition for *quo warranto* under Section 5(1) of the 1987 Constitution:

> Article VIII
>
> JUDICIAL DEPARTMENT
>
> Section 5. The Supreme Court shall have the following powers:
>
> (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and habeas corpus.

A petition for *quo warranto* is governed by Section 1 of Rule 66 of the Rules of Court:

> Section 1. *Action by Government against individuals.* – An action for usurpation of public officer or franchise may be commenced by a verified petition brought in the name of the Republic of the Philippines against:
>
> (a) **A person who** usurps, intrudes into or **unlawfully holds or exercises a public office**, position or franchise;

(b) A public officer who does or suffers an act which, by the provision of law, constitutes a ground for the forfeiture of his office;
(c) An association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act.[22]

The pivotal question of law is whether an official who may be removed through impeachment, may also be removed through a petition for *quo warranto*. I agree with the *ponencia* in ruling for the affirmative of the issue.

It is basic in constitutional construction that if the constitutional provision is clear and unambiguous, it is neither necessary nor permissible to resort to extrinsic aids for its interpretation, such as the records of deliberation of the constitutional convention, history or realities existing at the time of the adoption of the constitution, changes in phraseology, prior laws and judicial decisions, contemporaneous constructions, and consequences of alternative interpretations.[23] It is only when the intent of the framers does not clearly appear in the text of the provision, as when it admits of more than one interpretation, where reliance on such extrinsic aids may be made.[24] After all, the Constitution is not primarily a lawyer's document, and it does not derive its force from the convention that framed it, but from the people who ratified it.[25] Well settled is the principle of constitutional construction that the language employed in the Constitution must be given their ordinary meaning except where technical terms are employed. "As much as possible, the words of the Constitution should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say."[26]

The language of Section 2, Article XI of the 1987 Constitution is plain and clear:

> Section 2. The President, Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman **may be removed from office** on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.[27]

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22 Emphasis added.
23 Statutory Construction, Ruben E. Agpalo, p. 439 (2003)
24 *People v. Muñoz*, G.R. Nos. L-38969-70, February 9, 1989.
25 *People v. Derilo*, 338 Phil. 350 (1997).
26 *Chavez v. Judicial and Bar Council*, 691 Phil. 173 (2012)
27 Emphasis added.

There is nothing in the provision that states that said public officers may be removed from office only through impeachment. As aptly pointed out by the *ponencia,* the Court has consistently held that the term "may" is indicative of a mere possibility, an opportunity or an option, and denotes discretion and cannot be construed as having a mandatory effect. The said constitutional provision being clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[28]

It is also undisputed that the President and the Vice-President may not only be removed through impeachment, but also through *quo warranto* by the Supreme Court, acting as the Presidential Electoral Tribunal. The next crucial question is whether impeachable and appointive public officials like members of the Supreme Court, the Constitutional Commissions, and the Ombudsman, may be removed through a petition for *quo warranto.*

I share the view of the *ponencia* that courts should be able to inquire into the validity of appointments even of impeachable officers; otherwise, there would be an absurd situation where the appointment of an impeachable officer cannot be questioned even when he or she has been determined to be of foreign nationality or, in an office where Bar membership is a qualification, he or she fraudulently represented to be a member of the Bar. This brings to mind *Caronan v. Caronan*[29] where the Court found that respondent falsely used his brother-complainant's name, identity, and school records to gain admission to the Bar, and ruled that since complainant – the real "Patrick A. Caronan" – never took the Bar Examination, the name should be stricken-off the Roll of Attorneys. It is not farfetched that an enterprising individual, like the one in *Caronan*, would one day — in this age of advanced information and communication technology where identity theft is prevalent — would aim to be appointed to a public office, subject to impeachment. In that plausible event, a petition for *quo warranto* should be the proper remedy to assail the eligibility of the public officer. It would be detrimental to the interest and general welfare of the public to allow unqualified and ineligible public officials to continue occupying key positions, exercising sensitive sovereign functions until they are successfully removed from office through impeachment. In case of doubt in the interpretation or application of laws, it is presumed that the law-making body intended right and justice to prevail.[30]

Moreover, in *Funa v. Chairman Villar*,[31] the Court, in a petition for *certiorari* and prohibition assailing the appointment of then Commissioner Renaldo A. Villar to the position of Chairman of the Commission on Audit (*COA)* to replace Guillermo N. Carague, whose term of office as such

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28 *Funa v. Chairman Villar*, 686 Phil. 571, 591-592 (2012)
29 A.C. No. 11316, July 12, 2016.
30 Article 10 of the New Civil Code.
31 686 Phil. 571 (2012).

Chairman has expired, declared Villar's appointment unconstitutional for violation of Sec. 1(2), Article IX(D) of the Constitution. The Court held that a COA Commissioner like respondent Villar who served for a period less than seven (7) years cannot be appointed as chairman when such position became vacant as a result of the expiration of the 7-year term of the predecessor (Carague), because such appointment to a full term is not valid and constitutional, as the appointee will be allowed to serve more than 7 years, in violation of the constitutional ban.

To my mind, if an impeachable public officer like the Chairperson of the COA was removed through a petition for *certiorari* and prohibition, how much more in a direct proceeding assailing the constitutional eligibility of such pubic officer to hold public office, such as the position of Chief Justice of the Supreme Court, which requires one to be of proven integrity to become its member. As held in *Frivaldo v. Commission on Elections*,[32] qualifications for public office are continuing requirements and must be possessed not only at the time of appointment or election or assumption of office but during the officer's entire tenure. "Once any of the required qualifications is lost, his title may be seasonably challenged."[33]

If officials like the President and the Vice-President, who were elected by the people at large, can be removed through *quo warranto* proceedings, I cannot see any substantial distinction why members of the Supreme Court and other constitutional bodies, who are merely appointed by the President, cannot be removed through a proceeding directly assailing their constitutional qualification to be appointed to public office.

Respondent's reliance on *Lecaroz v. Sandiganbayan*[34] and *Cuenco v. Fernan*[35] to support her claim that she can only be removed as Chief Justice of the Supreme Court through impeachment, is misplaced.

Lecaroz involves a municipal mayor who questioned the jurisdiction of the Sandiganbayan over the charge of grave coercion, and insisted that such crime was within the jurisdiction of ordinary courts. Aside from upholding the Sandiganbayan's concurrent jurisdiction over the crime, the Court rendered an *obiter dictum* to the effect that impeachable officers may only be removed through impeachment:

> The broad power of the New Constitution vests the respondent court with jurisdiction over "public officers and employees, including those in government-owned or controlled corporations." There are exceptions,

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32 255 Phil. 934 (1989).
33 *Id.*
34 213 Phil. 288 (1984).
35 241 Phil. 816 (1988).

however, like constitutional officers, particularly those declared to be removed by impeachment. Section 2, Article XIII of the 1973 Constitution provides:

> SEC. 2. The President, the Members of the Supreme Court, and the Members of the Constitutional Commission shall be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, other high crimes, or graft and corruption.

Thus, the provision proscribes removal from office of the aforementioned constitutional officers by any other method; otherwise, to allow a public officer who may be removed solely by impeachment to be charged criminally while holding office with an offense that carries a penalty of removal from office, would be violative of the clear mandate of the law.

Cuenco involves the disbarment case against an incumbent Supreme Court Justice for unethical conduct as a lawyer committed prior to becoming a Supreme Court Justice, as well as after being appointed as such. The Court dismissed the disbarment and established the following doctrine:

> x x x Members of the Supreme Court must, under Article VIII (7) (1) of the Constitution, be members of the Philippine Bar and may be removed from office only by impeachment (Article XI [2], Constitution), To grant a complaint for disbarment of a Member of the Court during the Member's incumbency, would in effect circumvent and hence ran afoul of the constitutional mandate that **Members of the Court may be removed from office only by impeachment for and conviction of certain offenses listed in Article XI (2) of the Constitution**. Precisely the same situation exists in respect of the Ombudsman and his deputies (Article XI [8] in relation to Article XI [2], Id.) a majority of the members of the Commission on Elections (Article IX [C] [1] [1] in relation to Article XI [2], id.), and the members of the Commission on audit who are not certified public accountants (Article XI [D] [1][1], id.), all of whom are constitutionally required to be members of the Philippine Bar.[36]

The *Cuenco* doctrine was subsequently applied or invoked and enhanced in the follow-up case of *In Re: Raul M. Gonzalez*[37] as well as in cases involving the Ombudsman, Deputy Ombudsman, Members of the Commission on Elections and the President.[38] However, *Lecaroz* and *Cuenco* should be revisited because it is not supported by a plain reading of the Constitution. There is nothing in Section 2, Article XIII of the 1973 Constitution and Section 2, Article XI of the 1987 Constitution that states that

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36 Emphasis added.

37 160 SCRA 661 (1998).

38 Rene B. Gorospe, Polictical Law (2016), citing *Jarque v. Desierto*, 250 SCRA 11 (1995) [Disbarment of Ombudsman]; *Lastimosa-Dalawampu v. Mojica*, Adm. Case No. 4638, August 6, 1997 [Disbarment of Deputy Ombudsman]; *Office of the Ombudsman v. Court of Appeals*, 493 Phil. 63 (2005) [Criminal and Administrative Investigation of Deputy Ombudsman]; *Marcoleta v. Borra*, 601 Phil. 470 (2009) [Disbarment of COMELEC Commissioners]; and *Estrada v. Desierto*, 406 Phil. 1 (2001) [Criminal Prosecution of Former President x x x].

the concerned public officers may **only** be removed through impeachment. The provision simply means that only the enumerated high government officials may be removed via impeachment, but it does not follow that they could not be proceeded against in any other manner, if warranted. Otherwise, the constitutional precept that public office is a public trust would be undermined simply because political or other improper consideration may prevent an impeachment proceeding being initiated. To recall, the term "may" is indicative of a mere possibility, an opportunity or an option, and denotes discretion and cannot be construed as having a mandatory effect. The said constitutional provisions being clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[39]

Cuenco is likewise not applicable because there is no question therein as to the constitutional qualifications of the respondent Supreme Court Justice, whereas in this petition for *quo warranto*, respondent's eligibility to become a member of the Supreme Court is being directly assailed for failure to prove her integrity, which is one of the constitutional qualifications of such public office. In *Cuenco*, the respondent, who possessed all the qualifications to be considered as an applicant and to be appointed as a member of the Supreme Court, was being sought to be removed through disbarment due to alleged unethical conduct committed before and during his incumbency as Associate Justice. In stark contrast, respondent's removal is being sought through the present *quo warranto* because she lacks the constitutional qualification of "proven integrity" in order to become a member of the Supreme Court even from the very beginning. In fact, she was only able to be considered as an applicant by deliberately concealing from the JBC her habitual failure to file SALNs in violation of the applicable laws and the Constitution.

Under American jurisprudence, which has persuasive effect in this jurisdiction, it has been held that the power to impeach executive officers, vested in the legislature, does not affect the jurisdiction of the Supreme Court to try the right to office, since such right to an office is a proper matter of judicial cognizance, and impeachment is not a remedy equivalent to, or intended to take the place of *quo warranto*.[40]

In view of the discretionary wording of Section 2, Article XI of the 1987 Constitution on impeachment, and the nature of *quo warranto* as a separate and distinct means of removing a public officer, I submit that *quo warranto* proceedings may be instituted to question the constitutional qualifications of impeachable public officials to hold public office at the time of their appointment. As for the claim that allowing *quo warranto* as a means of removing impeachable public officers would undermine the independence of the Judiciary, I believe otherwise, for it will ensure that only those who are

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39 *Funa v. Chairman Villar*, 686 Phil. 571, 591-592 (2012).

40 74 C.J.S. Quo Warranto § 15.

of proven competence, integrity, probity, and independence would be able to join the Judiciary. Such a proceeding, instead of diminishing judicial independence, would instead strengthen it as it provides a means to root out undeserving members.

The burden of proof in a petition for quo warranto rests upon respondent

Contrary to respondent's claim that the burden of proof to show unlawful holding or exercise of public office rests on the petitioner in a *quo warranto* proceeding, the general rule under American jurisprudence is that the burden of proof is on respondent when the action is brought by the attorney general, to test the right to public office, thus:

> When the state calls on an individual to show his title to an office, he must show the continued existence of every qualification necessary for its enjoyment. The state is bound to make no showing and defendant must make out an undoubted case. He must set out his title specifically and show on the face of the answer that he has a valid title. The people are not called on to show anything. The entire burden is on defendant. And the same rule applies when the proceeding is brought to test the organization of a municipality. The exception to the rule, when they occur, are generally those proceedings brought in relation to a private individual as claimant, or for a private purpose when that is authorized by statute in which case it is held, the burden is on relator.[41]

American jurisprudence compares ordinary civil actions with *quo warranto* in this wise:

> In ordinary civil actions, the burden of proof generally rests upon the plaintiff to prove his title or right to the thing in controversy. But in quo warranto, in the absence of any legislation or controlling consideration to the contrary, the burden of proof may rest upon the respondent or defendant. The burden of justifying acts of usurpation rests upon the respondent at all times, although, as stated in the following section, a prima facie showing of right to office in question may cast the burden on the relator. In some jurisdictions, however, the rule obtains that the burden of proof in a quo warranto proceeding or an action in the nature thereof is to be determined from the issues raised by the pleadings precisely as in other actions. The first stated and generally accepted rule is based upon the character of the proceeding. **By the ancient writ of quo warranto, the respondent was called upon to answer by what right he held the office or franchise under dispute. He was compelled to show his title, and, if he failed to do so, judgment was entered against him.** The same rule was applied also in cases where proceedings by information in the nature of quo warranto were resorted to as a substitute for the writ. And, in general, this rule,

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[41] The Revised Rules of Court in the Philippines, Special Civil Actions, Vicente Francisco, Volume IV-B, Part 1, Rules 62-68, pp. 319-320 (1972), citing Ferris on Extraordinary Legal Remedies, 156.

> notwithstanding statutory changes in forms of procedure, still remains as the peculiar feature of these proceedings.[42]

Therefore, it is the respondent, not the petitioner, who bears the burden to prove that she possessed the constitutional qualification of proven integrity when she applied for the position of Associate Justice of Supreme Court in 2010, despite her failure to comply with the statutory and constitutional requisite of SALNs for the years of 2000, 2001, 2003, 2004, 2005 and 2006 while she was in government service, albeit on official leave intermittently.

One-year prescriptive period should be reckoned from discovery of the concealed cause for ouster from public office

As a rule, an action against a public officer or employee for his ouster from office – within 1 year from the date the petitioner is ousted from his position[43] or when the right of the claimant to hold office arises.[44] The reason for the rule is that it is an expression of policy on the part of the State that persons claiming a right to an office which they were illegally disposed of should immediately take steps to recover said office. And if they failed to do so within 1 year, they shall be considered as having lost their right thereto by abandonment. Besides, there must be stability in the service so that public business may not be unduly retarded, and delays, if there is a right to positions in the service, must be discouraged.[45] Too, it was held that the rationale for the 1-year prescriptive period is that the government must be immediately informed or advised if any person claims to be entitled to an office or position in the Civil Service, as against another actually holding it, so that the government may not be faced with the predicament of having to pay two salaries, one for the person actually holding the office, although illegally, and another, for one not actually rendering service, although entitled to do so.[46]

Exception to the rule is when the petitioner was constantly promised and reassured, or reinstatement, in which case *laches* may not be applied because petitioner is not guilty of inaction, and it was the continued assurance of the government, through its responsible officials, that led petitioner to wait for the government to fulfill its commitment.[47] In view thereof, I posit that the 1-year prescriptive period to file a petition for *quo warranto* should commence from the time of discovery of the cause for the ouster from public

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42 65 Am Jur 2d Quo Warranto §104. (Emphasis added).
43 *Madrigal v. Lecaroz*, 269 Phil. 20 (1990).
44 *Unabia v. City Mayor of Cebu*, 99 Phil. 253 (1956).
45 *Id.*
46 *Madrid v. Auditor General*, 108 Phil. 578 (1960).
47 *Cristobal v. Melchor*, 189 Phil. 658 (1997).

office, especially in cases where the ground for disqualification is not apparent or is concealed.

For instance, if a person was appointed as commissioner of a constitutional body, who may be removed through impeachment, but such person had successfully concealed a lack of qualification or presence of a disqualification to be appointed from such office, said officer cannot be removed through impeachment because the concealment of disqualification was committed **prior to** appointment. The same observation holds true if a member of the Supreme Court conceals the fact that he or she is not a natural-born-citizen of the Philippines. More importantly, the grounds for impeachment under Section 2,[48] Article XI of the 1987 Constitution pertain exclusively to acts committed **after** the appointment, and they **hardly include** the failure to meet the qualifications of a public office. Thus, if the ineligibility is already present at the moment the person assumed public office, then a petition for *quo warranto* is the proper remedy to question whether the holding or exercise of office is lawful. Otherwise, there would be an absurd scenario where a person would be allowed to continue holding public office even if he or she was not even qualified to hold office in the first place, unless he or she commits an impeachable act.

Respondent's deliberate concealment from the JBC of the material fact that she failed to file habitually her SALNs during her stint as a U.P. Law Professor means that her appointment as an Associate Justice of the Supreme Court in August 16, 2010 is void ab initio, for she lacks the constitutional qualification of "proven integrity" in order to become a member of the Court

In the aftermath of the controversial impeachment of former Chief Justice Renato C. Corona on May 29, 2012 for failure to properly declare his assets in his SALNs, the JBC, in a meeting on June 4, 2012, agreed and caused the publication of an Announcement that for candidates for the position of Chief Justice of the Supreme Court, applicants and nominees shall be required to submit, in addition to the usual documentary requirements: (1) "all previous SALNs (up to 31 December 2011)" for those in the government, and (2) "Waiver in favor of the JBC of the confidentiality of local and foreign bank

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[48] Section 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

accounts under the Bank Secrecy Law and Foreign Currency Deposit Act." The JBC's act of requiring the submission of complete SALNs, especially those candidates coming from the government, is meant to a avoid a tragedy similar to what befell no less than the Head of the Judiciary, and to emphasize the mandatory nature of SALNs as a tool to determine compliance with one of the constitutional requirements[49] to become a Supreme Justice: proven integrity.

On July 2, 2012, respondent accepted the nominations and endorsements for the position of Chief Justice, coming from various persons and groups in the legal and evangelical community. In support of her nomination, respondent submitted her SALNs for the years 2009, 2010 and 2011.

On July 20, 2012, the JBC *En Banc* deliberated on the candidates with incomplete documentary requirements. Minutes of the JBC Special *En Banc* meeting show that asActing *Ex-Officio* Chairperson, I suggested that the Council examine the matrix per candidate. Meanwhile, Undersecretary Michael Frederick L. Musngi, Representative of the Executive Branch *vice Ex-Officio* Member Department of Justice Secretary Leila M. De Lima, asked for clarification as to what would constitute a substantial compliance or whether the JBC had previously agreed on some parameters to determine the same. He expressed his view that it may be unfair for a candidate to be barred from the interview process because of some lacking requirements. It would be proper to ask the candidate, to accord them due process, for the reason of non-submission despite persistent notice or advice. For my part, I said that the JBC could ask the nominee during the interview as to the reason for their non-compliance.

Minutes of the JBC *En Banc* meeting reveal that Senator Escudero mentioned that prior to the attendance of Undersecretary Musngi, it has been agreed upon by the JBC, and quite clearly the same had been conveyed to the candidates, that should they fail to submit all requirements by July 17, 2012, they would not be interviewed or considered for nomination. He said that it would be again extended, and if by that time they would still fail to submit, then it might cause some problems; for example, submission of the waiver on the day of the interview is unacceptable, as there would not be sufficient time to check their bank accounts. In addition, if indeed they are serious with their applications, they should inform the JBC as to the reason for failing to comply with certain requirements. As to the parameters of a substantial compliance, he said that Justice Abad has substantially complied for the reason that even

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[49] A member if the Supreme Court must be (a) natural-born citizen of the Philippines; (b) be at least forty (40) years of age but not seventy years old or more; (c) have been for fifteen (15) years or more a judge of a lower court or engaged in the practice of law in the Philippines; and (d) be of proven competence, integrity, probity and independence. (Sections 7 (1 & 3), Article VII, Constitution).

if he lacks SALNs for certain periods in the 80s, he submitted the rest of them. He commented that there is at least an attempt to comply with the particular requirement and it could be a parameter. However, with respect to requirements that are stand-alone, there is no reason why they could not comply, as they are easy to secure as in the case of proof of age and citizenship.

Minutes of the JBC *En Banc* likewise show that JBC Regular Member Justice Regino C. Hermosisima, Jr. joined the motion of Justice Aurora Santiago Lagman that candidates who have incomplete requirements be given until Monday, July 23, 2012, to comply. He added that asking the candidates for the reason why they failed to comply with the lacking requirement on the day of the interview would be too late as they should have been excluded prior to that day. For her part, JBC Executive Officer Atty. Annaliza S. Ty-Capacite asked for clarification, particularly with respect to SALNs, whether five (5) SALNs would constitute a substantial compliance if the candidate has been in the government for twenty (20) years.

During the same JBC *En Banc* meeting of July 20, 2012, the JBC proceeded to examine the list with regard to the SALNs, particularly the candidates coming from the government, and identified who among them would be considered to have substantially complied. With respect to respondent, the JBC Executive Officer informed the Council that **respondent "had not submitted her SALNs for a period of ten (10) years), that is from 1986 to 2006".** Meanwhile, *Ex-Officio* Member Senator Francis Joseph G. Escudero mentioned that Justice Sereno was his Professor at U.P. and that they were required to submit SALNs during those years.

Minutes of the JBC *En Banc* meeting further reveal that after the JBC passed upon list of candidates with regard to the SALNs, and identified who among them were considered to have substantially complied, Senator Escudero moved that the motion of Justice Lagman to extend the deadline on Monday be applied to all candidates and that the determination of whether a candidate has substantially complied with the requirements be delegated to the Execom. He further moved that any candidate who would still fail to complete the requirements at the close of office hours on Monday, July 23, 2012 would be excluded from the list to be interviewed and considered for nomination; unless they would be included if in the determination of the Execom, he or she has substantially complied.

In hindsight, it is safe to assume that the ultimate test of integrity was given on July 20, 2012, insofar as respondent's submission of SALNs was concerned. The importance of SALNs cannot be belittled and underestimated. The filing of SALN by public officers and employees is a requirement under

Section 17,[50] Article XI of the 1987 Constitution, Section 7[51] of Republic Act No. 3019 or the *Anti-Graft and Corrupt Practices Act*, Section 8[52] of R.A. No. 6713 or the *Code of Conduct and Ethical Standards for Public Officials and*

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[50] 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.

[51] Section 7. *Statement of assets and liabilities.* Every public officer, within thirty days after the approval of this Act or after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or chief of an independent office, with the Office of the President, or in the case of members of the Congress and the officials and employees thereof, with the Office of the Secretary of the corresponding House, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: Provided, That public officers assuming office less than two months before the end of the calendar year, may file their statements in the following months of January.

[52] 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.

All public officials and employees required under this section to file the aforestated 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.

Employees, and Section 34,[53] Chapter 9, Book I of the Administrative Code of 1987.

During the Oral Argument on April 17, 2018, respondent admitted knowledge of the importance of the SALNs in determining disparity between the declared assets of applicants and their income:

> JUSTICE DE CASTRO:
> Chief Justice, I have another question. There is some, a SALN readily available to you, the 2006 which you applied, which you submitted.
>
> CHIEF JUSTICE SERENO:
> Hindi ho nga iyon ang aking 2006 SALN. I used a form printed, drawn from the website of the CSC that why it was not notarized and it's dated 2010. Hindi po yon iyong SALN na sina-submit sa U.P.
>
> JUSTICE DE CASTRO:
> So, even if it's 2010, why did you not submit that to the JBC that is readily available. My question is.
>
> CHIEF JUSTICE SERENO:
> Kasi hindi nga ho iyon iyong SALN na kino-compliance sa law. Ang ginagamit po iyon at that time. Ang kinu-kwento sa akin nila ano, Justice Lagman at ni Atty. Cayosa, ginagamit nila iyon to look at the tax filings and if there is something inordinate. Kasi may mga nabibisto sila na mga lawyers na under-reporting ng income pero ang laki-laki ho ng assets. That is their basis tingnan ninyo ho, hindi ho iyong SALN na talagang required under the law.
>
> JUSTICE DE CASTRO:
> Okay. So that SALN of 2006 was not sworn to. So, and you were very careful in writing to the JBC. That that is a statement of assets and liabilities. You did not use the word sworn statement of assets and liabilities because you know that, that is not what the law required.[54]

Respondent's testimony is paradoxical. While she concedes the purpose of filing SALNs, respondent also claims that the **2006 SALN** she filed before the JBC on **July 28, 2010** in connection with her application for Associate Justice of the Supreme Court was not the SALN required by law, but was only for the purpose of determining the disparity between her declared assets and income. If respondent believes that she need not file a SALN as a candidate coming from the private sector in 2010, it is suspicious why she would file before the JBC an unsworn 2006 SALN, which is virtually a scrap of paper.

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[53] Sec. 34. Declaration of Assets, Liabilities and Net Worth. - 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.

[54] Transcript of Stenographic Notes (TSN), April 10, 2018, pp. 75-76.

In a letter July 23, 2012, respondent replied with respect to a follow-up call by then ORSN Chief Atty. Pascual last July 20, 2012, Friday, regarding the submission of her previous SALNs from 1995-1999. Instead of coming clean on the SALN issue, respondent came up with diversionary, evasive and irrelevant answers, thus: (1) the requirements imposed upon her prior to her appointment as Associate Justice of the Supreme Court in 2010 were those imposed on nominees from the private sector; (2) that her earlier-terminated government service did not control nor dominate the kind of requirements imposed on her; (3) that considering that most of her government records in the academe are more than fifteen years old, it is reasonable to consider it infeasible to retrieve all those files; and (4) that the U.P. HRDO issued a Certificate of Clearance on September 19, 2011 that she has been cleared of all academic/administrative responsibilities, money and property accountabilities and from administrative charges in the U.P. as of June 1, 2006. Thus, respondent requested that the requirements needed to be complied with be similarly viewed as that from a private sector, before her appointment in 2010 as Associate Justice of the Supreme Court.

This July 23, 2012 letter never reached the JBC *En Banc*. Curiously, the ORSN issued a Report on July 24, 2012, the first day of the public interview, which listed respondent's name under candidates with complete requirements but with a notation: "Letter 7/23/12 — considering her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those file." Verily, the JBC *En Banc* was not able to rule whether respondent's submission of SALNs for 2009, 2010 and 2011 constitutes substantial compliance with the original requirement of "all previous SALN (up to December 31, 2011)."

Worst, respondent's excuse that it was infeasible to retrieve the more than 15-year-old academe records turns out to be a subterfuge to evade compliance with the telephone call of Atty. Pascual regarding her 1995-1999 SALN. In a letter dated March 6, 2018, the U.P. HRDO certified[55] that respondent's SALN for 1995, 1996 and 1997 were found in its records, thus negating the Certificate of Clearance issued in her favor on September 19, 2011. Respondent glossed over the fact that the same clearance is "*without prejudice to her liabilities for any accountabilities/charges reported to this office [HRDO] after the aforementioned date and subject to COA disallowances*." Meanwhile, the 1998 SALN could not be found because, together with the 2002 SALN, it was only about 4 years later on August 21, 2003 that she had it notarized and presumably filed it the same year, as shown

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55 Petitioner's Memorandum, Annex "O."

in the Certification[56] dated April 17, 2018 issued by the Clerk of the Court of the Regional Trial Court of Quezon City.

In contrast, the Republic of the Philippines, represented by Solicitor General Calida, presented undisputed pieces of evidence consisting of the following documents for 2000-2009 preceding her appointment as Associate Justice of the Supreme Court:

> 1. HRDO's Certification[57] and Letter,[58] both dated December 8, 2017, stating that the **201 file of respondent does not contain the SALNs** for the years 2000, 2001, 2003, 2004, 2005 and 2006.
>
> 2. Certification[59] dated December 4, 2017 issued by the Office of the Ombudsman Central Records Division states that there is **no SALN filed by respondent for calendar years 1999 to 2009** except SALN ending December 1998, which was submitted only on December 16, 2003.

In an attempt to dispute the foregoing evidence, respondent insisted that she habitually filed her SALNs, that the documents of the Ombudsman and U.P. HRDO contradicted each other, and that she also found her 1989 which was not on the file of UP. Thus, she concluded that petitioner has not proven anything at all with regard to her failure to file her SALNs.[60]

A closer look into her arguments reveals the flaws in her defense. Contrary to her claim, the only disparity between the certifications issued by the Ombudsman and the U.P. HRDO is with regard to the 2002 SALN, but the SALNs for 2000, 2001, 2003, 2004, 2005 and 2006 (both annual and exit SALNs) are not filed with the official repositories thereof:

Calendar Years	Ombudsman Certification[61] **(1999 to 2009)**	U.P. HRDO Certification and Letter[62] **(2000-2009)**
2000	No SALN filed	No SALN filed
2001	No SALN filed	No SALN filed
2002	No SALN filed	On record
2003	No SALN filed	No SALN filed
2004	No SALN filed	No SALN filed

56 *Id.*, Annex "P".
57 *Id.*, Annex "B."
58 *Id.*, Annex "D."
59 *Id.*, Annex "C."
60 TSN, April 10, 2017, p. 127.
61 Petitioner's Memorandum, Annex "C."
62 *Id.*, Annexes "B" and "D."

2005	No SALN filed	No SALN filed
2006	No SALN filed	No SALN filed
2007	Resigned	
2008		
2009		

Because the official repository of the SALNs is only required to keep a record within a ten-(10) year period,[63] it is fair to expect that respondent had kept on file her SALNs, or secured copies thereof from the U.P. HRDO for a similar period **prior** to her application for the position of Associate Justice of the Supreme Court in 2010. Granted that she was unable to keep on file her SALNS because she transferred residences several times, and she was not a religious keeper of records, respondent could have easily secured certified copies thereof from the U.P. HRDO and submit them to the JBC. If petitioner was able to secure from the U.P. HRDO respondent's SALN for the years 1985, 1990, 1991, 1993, 1996, 1997 and 2002, the questions that beg to be answered by respondent in connection with her letter dated July 23, 2012 are as follows: (1) why did she not attempt to obtain certified copies with respect to the more recent ones, such as the SALNs for 2000, 2001, 2003, 2004, 2005 and 2006?; and (2) why did she claim that it is infeasible to retrieve her academe records which are more than 15 years old, when in fact the SALNs for 1997, 1998 and 1999 subject of Atty. Pascual's telephone call are not even that old? On point is the disputable presumption that evidence wilfully suppressed would be adverse if produced.[64]

Respondent's excuse of lack of time between the date of the call [July 20, 2012, Friday] and day of deadline [July 23, 2012, Monday] is flimsy because even if she was very busy at work, she has a full complement of administrative and legal staff as an Associate Justice to help her secure copies of her SALNs. The fact that former Chief Justice Corona was impeached for improper declarations in his SALNs less than a month from the July 20, 2012 call of the ORSN regarding her SALNs, should have made her realize the significance of such requirement. Knowing that the extended deadline for submission of the SALNs is on July 23, 2012, she ought to have someone call the U.P. HRDO, which is expected to extend courtesy to a former faculty member who is no less than an Associate Justice of the Supreme Court of the Philippines. Unfortunately, she found it more convenient to come up with an excuse letter rather than exerting diligent efforts to substantially comply with the SALN requirement.

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[63] Section 8, paragraph C(4) of R.A. No. 6713: (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.

[64] Section 3(e) of Rule 131 of the Revised Rules on Evidence.

At this point, it is not amiss to stress that even if respondent was on official leave for intermittent periods from June 1, 2000 until she resigned on June 1, 2006, she is not exempt, but still required to file SALNs during those periods, pursuant to Civil Service Commission (*CSC*) Resolution No. 060231 dated February 1, 2006. Under Section 1 of the CSC Resolution, "all public officials and employees, except those who [a] serve in an official honorary capacity, without service credit or pay, [b] temporary laborers and [c] casual or temporary and [d] contractual workers, shall file under oath their SALNs and Disclosure of Business Interests and Financial Connections with their respective Chief or Head of Personnel/Administrative Division or Unit/Human Resource Management Office (HRMO), to wit:

> 1. Within thirty (30) days after assumption of office, statements of which must be reckoned as of his/her first day of service;
>
> 2. On or before April 30 of every year thereafter, statements of which must be reckoned as of the end of the preceding year; and
>
> 3. Within thirty (30) days after separation from service, statements of which must be reckoned as of his/her last day of office."

Certifications[65] of the Ombudsman and the U.P. HRDO show that despite the fact that respondent was a public employee, albeit on extended leave as a U.P. Law Professor, she failed to file her annual SALNs for 2000, 2001, 2003, 2004, 2005, 2006, as well as her separation SALN for 2006, in violation of CSC Resolution No. 060231, R.A. Nos. 6713 and 3019, and the Constitution. These violations were only discovered during the Congressional Hearings of the Committee on Justice to determine probable cause to impeach the respondent Chief Justice. When she accepted on July 2, 2012 the nomination for the position of Chief Justice as a candidate coming from government service, which required all her SALNs, respondent filed only SALNs for 2009, 2010 and 2011.

In an attempt to be considered as candidate coming from the private sector, respondent concealed that she failed to file SALNs for the years stated above, and misrepresented in a letter dated July 23, 2012 that it is infeasible to produce her more than 15-year academe records, in order to be considered as a candidate coming from the private sector. Because of that letter, the ORSN reported to the JBC *En Banc* that she had complete documentary requirements, but the latter never really had the opportunity to determine her substantial compliance with the SALN requirements because the letter was never deliberated upon in time for the public interview on July 24, 2012. Members of the Execom, which was delegated the duty to determine compliance with the SALN requirement, also denied knowledge of respondent's letter. During the Congressional Hearing on February 27, 2018,

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65 Petitioner's Memorandum, Annexes "B" and "C."

then ORSN Chief Atty. Pascual stopped short of admitting that he was the one responsible for including the name of respondent in the list of candidates, who submitted complete requirements, per ORSN Report dated July 24, 2017.

There is no merit in respondent's invocation of *Concerned Taxpayer v. Doblada*[66] which is not on all fours with her case. In *Doblada*, the Court found no sufficient evidence to prove that the court sheriff failed to file his SAL [Statement of Assets and Liabilities] for the years 1975, 1977 to 1988, 1990, 1992, 1994, 1997, 1999 and 2000. It held that one cannot readily conclude that the court sheriff failed to file his sworn SAL for said years based on the following premises: (1) the court sheriff maintained that he has consistently filed his SAL for said years; (2) he submitted a copy of a letter of the Acting Branch Clerk of Court of his station, stating that attached therewith are the sworn SAL of the staff of said Branch, including his 2000 SAL; (3) said letter was duly received by the Office of the Court Administrator (OCA), but said 2000 SAL is one of those missing in the files of OCA; and (4) the OCA report simply stated that it does not have on its file the subject SAL, but there was no categorical statement that he failed to file his SAL for the said years. In this case, as correctly noted by the OSG, respondent failed to support her bare allegation of habitual filing of SALNs with clear and convincing evidence to dispute the Certifications issued by the U.P. HRDO and the Central Records Division of the Office of the Ombudsman, categorically stating that there is no record on file of her 2000, 2001, 2003, 2005 and 2006 SALNs. Note also that there is no missing SALNs involved here, but only missing file copies thereof of respondent.

Weighed against the documentary evidence proffered by the OSG, respondent's unsubstantiated assertion of filing all her SALNs to the best of her recollection and reliance on the *Doblada* case fail to persuade. I, therefore, find that respondent failed to discharge the burden of proving that she filed her SALNs for the calendar years of 2000, 2001, 2003, 2004, 2005 and 2006 in violation of the laws and the Constitution. For deliberately concealing from the JBC *En Banc* her failure to file her SALNs, especially in the wake of the impeachment of a former Chief Justice on the ground of failure to properly declare assets in his SALNs, I posit that respondent did not possess the qualification of proven integrity at the time she was appointed as Associate Justice of the Supreme Court in 2010.

The filing of SALNs cannot be brushed aside as mere formality required of every public officer and employee, for it is mandated by laws and the Constitution. During the Oral Arguments, I emphasized the nature and consequence of the violation of the SALN law:

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66 498 Phil. 395 (2005).

JUSTICE PERALTA:

Just for Solicitor General Calida. I just want to ask questions from Solicitor General Calida, just few questions. Now, let's go to the SALN law. We all understand that the SALN law is *malum prohibitum?*

SOLICITOR GENERAL CALIDA:

Yes, your Honor.

JUSTICE PERALTA:

And that failure to file SALN, makes the public official administratively liable and criminally liable.

SOLICITOR GENERAL CALIDA:

Yes, your Honor.

JUSTICE PERALTA:

Good faith is not a defense in violation of SALN law?

SOLICITOR GENERAL CALIDA:

Yes, your Honor, because it is *mala prohibita.*

JUSTICE PERALTA:

I remember, when I was a Justice at the Sandiganbayan, there were many government officials who were charged with violation of SALN law. And I could not recall an instance where the public official proceeded to trial because all of them pleaded guilty for violation of the SALN law. The latest was a former ex or retired general, where he pleaded guilty for violation of the SALN law for three (3) years. In other words, it's not only administrative liability, insofar as the SALN law, it is also criminal, there is also a criminal liability in SALN law?

SOLICITOR GENERAL CALIDA:

Yes, you Honor.

JUSTICE PERALTA:

Do you agree?

SOLICITOR GENERAL CALIDA:

I agree, your Honor.

JUSTICE PERALTA:

Because of the questions of Justice Leonen, I am forced to ask this question. He claims that the, I mean in his question, he says that the Chief Justice did not file her SALNs from 2002 to 2006 because she was on leave from the College of Law? Would that excuse a government official from filing her SALN just because she's on leave?

SOLICITOR GENERAL CALIDA:

No, it won't your, Honor.

JUSTICE PERALTA:

Because she's still a government official?

SOLICITOR GENERAL CALIDA:
That's correct, your Honor.[67]

The fact that respondent was on leave from the U.P. does not preclude her from committing bribery because such crime may also be committed by private individuals in cahoots with public officers. Article 212 of the Revised Penal Code provides that the same penalties imposed upon the officer corrupted, except those of disqualification and suspension, shall be imposed upon any person who shall have made the offers or promises or given the gifts or presents as described in the provisions on direct, indirect and qualified bribery under Articles 210, 211 and 211-A of the RPC, respectively.

At any rate, the petitioner aptly pointed out that the filing of respondent's SALNs especially for 2005 and 2006 is crucial because it was during this period that she was deriving income from the Philippine Government as counsel in the Philippine International Airlines Terminal Company, Inc. (PIATCO) case. Pertinent portions of the Oral Arguments are as follows:

JUSTICE PERALTA:
Alright. Now, in you comment, or anyway. I will not ask the question... Do you know when the Chief Justice started earning income as a lawyer in the PIATCO cases?

SOLICITOR GENERAL CALIDA:
I was not yet the Solicitor General but...

JUSTICE PERALTA:
But based on records, when did she start receiving fees from PIATCO cases?

SOLICITOR GENERAL CALIDA:
Okay.

JUSTICE PERALTA:
Will you please check your records.

(SolGen Calida conferring with his co-counsel)

SOLICITOR GENERAL CALIDA:
Your Honor, I think the person who can answer that is respondent, Your Honor, because she was the one who received millions.

JUSTICE PERALTA:
Yeah, but based on your records because hearing, in the impeachment I can recall years but you confirm. I thing she started as

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67 TSN, Oral Arguments, April 10, 2018, pp. 92-93.

consultant of PIATCO sometime in 2003? Or late 2003 and then she started receiving payments, millions of pesos in 2004, just your records.

SOLICITOR GENERAL CALIDA:
In her Personal Data Sheet, your Honor, PDS...

JUSTICE PERALTA:
It's not in the Personal Data Sheet.

SOLICITOR GENERAL CALIDA:
The amounts, your Honor?

JUSTICE PERALTA:
... I am asking you the documents that would show that she received income or fees from PIATCO staring in 2004. You cannot recall?

SOLICITOR GENERAL CALIDA:
I'm sorry, your Honor, we did not bring the copy.

JUSTICE PERALTA:
Anyway, anyway, can you confirm that she was a counsel of the government?

SOLICITOR GENERAL CALIDA:
Yes, your Honor.

JUSTICE PERALTA:
To represent the government in PIATCO cases?

SOLICITOR GENERAL CALIDA:
Yes, your Honor.

JUSTICE PERALTA:
And that she received millions of pesos, dollars but converted into million of pesos?

SOLICITOR GENERAL CALIDA:
That's correct your Honor.

JUSTICE PERALTA:
And she started receiving all these fees, 2004, 2005 and 2006?

SOLICITOR GENERAL CALIDA:
Yes, your Honor.

JUSTICE PERALTA:
I will now go back to my first question, if she was on leave and still a government official and she earned millions of pesos in 2004, 2005 and 2006 was she mandated under the law and in the Constitution to declare her income in the SALN and therefore it was important for her to file the SALN?

SOLICITOR GENERAL CALIDA:
Yes, Your Honor.

JUSTICE PERALTA:
That the income derived from PIATCO and those declared in the SALN would show how much taxes she should have paid?

SOLICITOR GENERAL CALIDA:
Yes, your Honor.

JUSTICE PERALTA:
It is not? So she was mandated after all?

SOLICITOR GENERAL CALIDA:
Yes, your Honor.

JUSTICE PERALTA:
... to file her SALN and to submit her SALN in 2004, 2005 and 2006?

SOLICITOR GENERAL CALIDA:
That's correct, your Honor. [68]

Even assuming that respondent's name was included in the shortlist of nominees for the position of Chief Justice submitted by the JBC to the Office of the President who later appointed her to such public office, there is a difference between determining her qualifications and the violation of the SALN law. Assuming for the sake of argument that there was a waiver on the part of the JBC with regard to respondent's incomplete SALNs, the fact remains that there were violations of the statutory and constitutional laws for failure to file SALNs, which not only cast doubt on her integrity, but also constitute culpable violation of the Constitution, and violation of R.A. Nos. 6713 and 3019 for as many years that she failed to file her SALNs. Because the said violations were committed even prior to respondent's appointment as Associate Justice of the Supreme Court in 2010, then they are proper subject of *quo warranto* proceedings instead of impeachment.

One last word. Only when this Court itself could lead the way in giving life to the principle of public accountability in a meaningful manner could it gain and retain the people's trust and confidence. This is one such landmark and historic instance.

WHEREFORE, I vote to **GRANT** the Petition for *Quo Warranto.*

DIOSDADO M. PERALTA
Associate Justice

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68 *Id.* at 94-96.