



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

**DEPARTMENT OF FINANCE –
 REVENUE INTEGRITY
 PROTECTION SERVICE (DOF-
 RIPS), represented by Joel M.
 Apolonio and Agapito C. Guarin,
 Petitioner,**

G.R. No. 236956

Present:

LEONEN, J., *Chairperson*,
 CARANDANG,
 ZALAMEDA,
 ROSARIO, and
 MARQUEZ, JJ.

-versus-

**OFFICE OF THE
 OMBUDSMAN and RAMIR
 SAUNDERS GOMEZ, Special
 Agent I, Bureau of Customs,
 Respondents.**

Promulgated:

November 24, 2021

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DECISION

ROSARIO, J.:

This resolves the Petition for *Certiorari*¹ filed under Rule 65 of the Rules of Court, by petitioner Department of Finance (DOF)-Revenue Integrity Protection Service (RIPS), represented by Graft Prevention and Control Officers Joel M. Apolonio (Apolonio) and Agapito C. Guarin (Guarin), against public respondent Office of the Ombudsman and private respondent Ramir Saunders Gomez (Gomez), Special Agent I of the Bureau of Customs (BOC). The Petition seeks to annul and set aside the Resolution² dated June

¹ *Rollo*, pp. 3-40.

² *Id.* at 48-60. The Resolution dated June 23, 2017 was penned by Graft Investigation and Prosecution Officer III Reiner C. Sadsad, reviewed by Director Moreno F. Generoso, recommended for approval by Assistant Ombudsman Aleu A. Amante, and approved on August 17, 2017 by Overall Deputy Ombudsman Melchor Arthur H. Carandang.

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23, 2017 and Order³ dated October 20, 2017 issued by the Office of the Ombudsman in the case docketed as OMB-C-C-15-0379.

The antecedent facts, as found by the Office of the Ombudsman, are as follows:

On August 28, 2015, petitioner DOF-RIPS filed a Complaint⁴ against private respondent Gomez for violation of Republic Act (RA) No. 3019 or the "Anti-Graft and Corrupt Practices Act," RA No. 6713 or the "Code of Conduct and Ethical Standards for Public Officials and Employees," and Articles 171(4) and 183 of the Revised Penal Code (RPC).

DOF-RIPS alleged that Gomez failed to file his Statement of Assets, Liabilities, and Net Worth (SALN) for 2003; failed to disclose his six lots in Old Cabalan, Olongapo City in his SALNs for 1996 to 2009, his townhouse in Barangay Culiati, Quezon City in his SALNs for 2004 to 2008, his Toyota Revo in his 2005 SALN, and his 9mm caliber pistol in his SALNs for 2010 to 2013; and filed two inconsistent SALNs in 2006, falsely declaring the acquisition cost of his Toyota Vios and that he obtained housing loans from the Government Service Insurance System (GSIS) and Pag-Ibig Home Development Mutual Fund (Pag-Ibig).⁵ The DOF-RIPS submitted various documents in support of its accusations.

In his Counter-Affidavit⁶ dated December 7, 2015, Gomez denied the charges against him and presented several documents to counter them. He averred that due to his designation as Special Agent I in the Bureau of Customs, he was constantly being deployed in the field, and the severity of his workload forced him to avail of the services of a bookkeeper named Liza Romerica to handle the preparation of his SALNs.⁷ Thus, he attributed the omissions and errors in his SALN entries to such bookkeeper. He likewise maintained that:

1. He is not the owner of the six lots in Old Cabalan, Olongapo City, proof of which is the absence of his signature in the deeds of sale, showing that he did not consent to the purchase of these lots and has no knowledge of their subsequent transfers;
2. He did not declare the Toyota Revo in his 2005 SALN because it was already sold on October 14, 2005;

³ Id. at 61-66. The Order dated October 20, 2017 was penned by Graft Investigation and Prosecution Officer III Reiner C. Sadsad, reviewed by Director Moreno F. Generoso, recommended for approval by Assistant Ombudsman Aleu A. Amante, and approved on November 22, 2017 by Overall Deputy Ombudsman Melchor Arthur H. Carandang.

⁴ Id. at 70-85. The Joint Complaint-Affidavit was signed by Graft Prevention and Control Officer III Joel M. Apolonio and Graft Prevention and Control Officer III Agapito C. Guarin for DOF-RIPS.

⁵ Id. at 72-77.

⁶ Id. at 127-137.

⁷ Id. at 129.

3. He did not declare the 9mm caliber pistol in his SALNs for 2010 to 2013 because the firearm was entrusted for repair in Marilao, Bulacan in 2011 but was never returned to him;
4. He did not file two SALNs for the year 2006 and the DOF-RIPS' evidence pertains to two different SALNs for 2005 and 2006; and
5. He made no false declaration because he actually has a Pag-IBIG housing loan, which was originally under the name of a Lucia T. Saunders (Saunders) and transferred to him only in 2014, while his declared Government Service Insurance System (GSIS) loan is actually a consolidated loan and not a housing loan, which is why the GSIS certified that he has no existing housing loan.⁸

In its Reply-Affidavit,⁹ the DOF-RIPS argued that the subject lots in Old Cabalan, Olongapo City were owned by and registered in the name of Gomez, as evidenced by their respective transfer certificates of title.

On June 23, 2017, the Office of the Ombudsman issued a Resolution,¹⁰ directing the filing of Informations against Gomez, to wit:

WHEREFORE, finding probable cause, let THREE (3) Informations for Perjury (Article 183, RPC) and THREE (3) Informations for Falsification (Article 171, RPC) be filed against RAMIR SAUNDERS GOMEZ before the appropriate courts.¹¹

Petitioner DOF-RIPS and private respondent Gomez filed their respective Motions for Reconsideration, assailing the above Resolution.

On October 20, 2017, the Office of the Ombudsman denied¹² both Motions for Reconsideration and affirmed its Resolution, thus:

WHEREFORE, the subject two Motions for Reconsideration are hereby both **DENIED**. Accordingly, the Resolution dated June 23, 2017 **STANDS**.¹³

Aggrieved, petitioner DOF-RIPS filed this Petition¹⁴ dated February 2, 2018, submitting that public respondent Office of the Ombudsman acted with grave abuse of discretion amounting to a lack or excess of jurisdiction in ruling that prescription had already set in, insofar as private respondent Gomez's non-filing of his 2003 SALN is concerned, when the Complaint was filed by the DOF-RIPS; and that Gomez's willful and deliberate assertions of falsehoods in his SALNs for 1996, 2004, 2005, and 2006 have already prescribed when the DOF-RIPS filed its Complaint, despite the felony being

⁸ See *rollo*, pp. 129-135. See also *rollo*, p. 51.

⁹ *Rollo*, pp. 142-155.

¹⁰ *Id.* at 48-60.

¹¹ *Id.* at 59.

¹² Order dated October 20, 2017. *Id.* at 61-66.

¹³ *Id.* at 65.

¹⁴ *Id.* at 3-40.

discovered only in 2014 and 2015. Hence, the DOF-RIPS prayed that the subject issuances of the Office of the Ombudsman be modified to include additional charges for four more counts of perjury under Article 183 of the RPC, four counts of falsification of public documents under Article 171 of the RPC, and one count for violation of RA No. 3019.

In a Manifestation (in lieu of Comment)¹⁵ dated June 11, 2018, public respondent Office of the Ombudsman stated that upon careful evaluation of the Petition, the Ombudsman deemed it prudent not to participate in this case, as it would otherwise be advocating for the innocence or non-culpability of private respondent Gomez. This is consistent with Section 5 of the Rules of Court, which provides that it shall be the duty of the private respondent to appear and defend, both in his/her behalf and that of the public respondent affected by the proceedings.

In a Comment¹⁶ dated July 14, 2021, private respondent Gomez contended that public respondent Office of the Ombudsman committed grave abuse of discretion amounting to a lack or excess of jurisdiction in ruling against the former, and sought that the DOF-RIPS' Petition be dismissed for lack of merit.

The issues for consideration essentially revolve around the prescription of the period to initiate the appropriate actions for Gomez's failure to file his 2003 SALN and for his act of making willful and deliberate assertions of falsehoods in his SALNs.

Upon a judicious evaluation of the records of the case and the applicable law and jurisprudence, We find the Petition bereft of merit.

I

Petitioner DOF-RIPS argued that public respondent Office of the Ombudsman acted with grave abuse of discretion amounting to a lack or excess of jurisdiction in ruling that prescription had already set in, insofar as private respondent Gomez's non-filing of his 2003 SALN is concerned, when the Complaint was filed, insisting that: a) Gomez may be indicted simultaneously for violation of Section 7 of RA No. 3019 and Section 8 of RA No. 6713; and b) the prescriptive period for violations of RA No. 3019 is fifteen (15) years.

I-A

In its Resolution dated June 23, 2017, the Office of the Ombudsman held that RA No. 6713 repealed parts of RA No. 3019, stating thus:

The certification issued by the BOC that it does not have the 2003 SALN of respondent demonstrates that respondent failed to file said SALN,

¹⁵ Id. at 275-278.

¹⁶ Id. at 336-349.

especially since there is no evidence submitted to controvert it. For such failure, respondent should be liable held [sic] for violation of RA 6713 but not RA 3019, because RA 6713 which was passed in 1989, provides a heavier penalty for non-filing of SALN thereby it modified the penalty provided under RA 3019 for said offense. Section 16 of RA 6713 provides that *all laws, decrees and orders or parts thereof inconsistent herewith are deemed repealed or modified accordingly, unless the same provide for a heavier penalty.* However, since violation of Section 8 (non-filing of SALN) of RA 6713 prescribes after 8 years, the charge against respondent which was filed almost 13 years after the alleged non-filing [sic] has already prescribed.¹⁷

Further to its position that private respondent Gomez may be indicted simultaneously for violation of Section 7 of RA No. 3019 and Section 8 of RA No. 6713, the DOF-RIPS alluded to the well-settled rule of statutory construction that repeals of statutes by implication are not favored. Relying heavily on the Sandiganbayan ruling in *People v. Hagedorn*,¹⁸ it averred that Section 7 of RA No. 3019 and Section 8 of RA No. 6713 are two separate offenses, and the latter did not modify the provisions of the former. A single act or incident may offend two or more entirely distinct and unrelated provisions of law, thus justifying the prosecution of the accused for more than one offense.¹⁹ The argument that the accused cannot be indicted simultaneously of all the crimes charged pursuant to Section 11 of RA No. 6713 is bereft of merit. Inasmuch as the penalty under RA No. 6713 is heavier than that under RA No. 3019, the accused's contention on the application of Section 11 is erroneous.²⁰

We are not persuaded.

Section 7 of RA No. 3019 or the "Anti-Graft and Corrupt Practices Act" requires every public officer to prepare and file a SALN with the office after assuming office, every other year thereafter, upon expiration of term of office, and upon resignation or separation from office. In the event of any violation, Section 9 of the same law imposes the penalty of fine not less than one hundred pesos (P100) nor more than one thousand pesos (P1,000), imprisonment not exceeding one (1) year, or both, to wit:

Section 9. Penalties for violations.

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(b) Any public officer violating any of the provisions of Section 7 of this Act **shall be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment not exceeding one year, or by both such fine and imprisonment**, at the discretion of the Court.²¹

¹⁷ Id. at 52; italics in the original.

¹⁸ SB-17-CRM-0498 to 0506, SB-17-0507 to 0515, and SB-17-CRM-1516 to 1524, July 19, 2017.

¹⁹ Id., citing *Loney v. People*, 517 Phil. 4-8, 421 (2006).

²⁰ Supra note 18.

²¹ Emphasis supplied.

Similarly, Section 8 of RA No. 6713 or the “Code of Conduct and Ethical Standards for Public Officials and Employees” mandates all public officials and employees to file under oath their SALN, and those of their spouses and unmarried children under eighteen (18) years of age living in their households, after assumption of office, every year thereafter, and after separation from the service. Under Section 11 of the same law, violations thereof are punishable with imprisonment not exceeding five (5) years, a fine not exceeding five thousand pesos (P5,000), disqualification from holding public office, or all of the above, thus:

Section 11. Penalties. – (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. **Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.**²²

Unlike in RA No. 3019, a repealing clause in RA No. 6713 provides for the amendment of inconsistent provisions of other laws, except where such laws impose a heavier penalty, hence:

Section 16. Repealing Clause. – All laws, decrees and orders or parts thereof inconsistent herewith, are deemed repealed or modified accordingly, **unless the same provide for a heavier penalty.**²³

Based on the foregoing, there exists an apparent inconsistency between Section 7 of RA No. 3019 and Section 8 of RA No. 6713, relative to the penalties imposable for the non-filing of a SALN. RA No. 3019 punishes the said omission by a fine not less than one hundred pesos (P100) nor more than one thousand pesos (P1,000), imprisonment not exceeding one (1) year, or both. Conversely, RA No. 6713 prescribes a fine not exceeding five thousand pesos (P5,000), imprisonment not exceeding five (5) years, disqualification to hold public office, or all of the above. Juxtaposed with the penalties under RA No. 3019, those imposed by RA No. 6713 are undeniably heavier, both in terms of the amount of fine and prison sentence, and in view of the additional punishment of disqualification from holding public office. Clearly, therefore, the application of Section 16 is warranted and the amendment of Section 7 of RA No. 3019 by Section 8 of RA No. 6713 is legally in order.

Contrary to the claim of the DOF-RIPS, and as demonstrated in the immediately preceding paragraph, nothing is implied in the repeal effected under Section 16 of RA No. 6713. In fact, it is an explicit and categorical

²² Emphasis supplied.

²³ Emphasis supplied.

repeal of inconsistent laws, limited only by the qualification that the provision being repealed does not provide for a penalty heavier than that indicated under RA No. 6713. As such, the rules and principles governing implied repeals are immaterial and inapplicable to this case.

Having established that Section 7 of RA No. 3019 was amended by Section 8 of RA No. 6713, it logically follows that Gomez may not be indicted under both provisions simultaneously. Hence, there was no grave abuse of discretion on the part of the Office of the Ombudsman when it ruled that Gomez should be held liable for the non-filing of his 2003 SALN in violation of RA No. 6713 but not RA No. 3019.

I-B

The Office of the Ombudsman, in its Order dated October 20, 2017, held that a violation of Section 8 of RA No. 6713 prescribes after eight (8) years, to wit:

Respondent was charged with violation of Section 8 of RA 6713 for his non-filing of 2003 SALN which was filed almost 13 years after said omission.

Violation of Section 8 of RA 6713 prescribes after eight (8) years, and being a special law, the prescriptive period should be computed in accordance with Section 2 of Act 3326, ...²⁴

Undaunted, the DOF-RIPS maintained that the prescriptive period for violations of RA No. 3019 is fifteen (15) years, pursuant to Batas Pambansa (BP) Blg. 195.²⁵ The DOF-RIPS averred that BP Blg. 195 is a special law which specifically provides for an extended period of prescription for offenses punishable under RA No. 3019, which letter was carried on by RA No. 6713. Given that a special law prevails over a general law, regardless of their dates of passage, BP Blg. 195 remains an exception to RA No. 6713. Accordingly, the prescriptive period of fifteen (15) years should apply to Gomez's offense of failure to file his 2003 SALN.

The petitioner's argument is untenable.

As previously established in detail, private respondent Gomez cannot be simultaneously prosecuted under Section 7 of RA No. 3019 and Section 8 of RA No. 6713 without violating Section 16 of RA No. 6713. Instead, he can only be legally prosecuted under Section 8 of RA No. 6713, consequently rendering the DOF-RIPS' theory, that a prescriptive period of fifteen (15) years should apply to Gomez's offense of non-filing his 2003 SALN consistent with RA No. 3019 as amended by BP Blg. 195, indefensible.

²⁴ *Rollo*, p. 63.

²⁵ An Act Amending Sections Eight, Nine, Ten, Eleven, and Thirteen of Republic Act Numbered Thirty Hundred and Nineteen, Otherwise Known as the Anti-Graft and Corrupt Practices Act.

Moreover, the issue raised by the DOF-RIPS has already been resolved by this Court in *People v. Del Rosario*,²⁶ which similarly involved the DOF-RIPS filing charges for violations of both Section 7 of RA No. 3019 and Section 8 of RA No. 6713. According to the Supreme Court:

R.A. No. 6713 does not expressly state the prescriptive period for the violation of its requirement for the SALNs. Hence, Act No. 3326 – the law that governs the prescriptive periods for offenses defined and punished under special laws that do not set their own prescriptive periods – is controlling. Section 1 of Act No. 3326 provides:

Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) **after eight years for those punished by imprisonment for two years or more, but less than six years**; and (d) after twelve years for any other offense punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years. Violations penalized by municipal ordinances shall prescribe after two months.

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The relevant legal provision on the reckoning of the period of prescription is Section 2 of Act No. 3326, to wit:

Section 2. Prescription of violation penalized by special law shall begin to run **from the day of the commission of the violation of the law, and if the violation be not known at the time from the discovery thereof** and the institution of judicial proceedings for its investigation and punishment.²⁷

The above finding in *Del Rosario v. People*,²⁸ that the prescriptive period for filing an action for violation of Section 8 of RA No. 6713 is eight (8) years, was cited in *Department of Finance – Revenue Integrity Protection Service v. Ombudsman and Casayuran*,²⁹ where the accused was also charged by the DOF-RIPS under both Section 7 of RA No. 3019 and Section 8 of RA No. 6713. We held:

The Ombudsman is correct in ruling that Casayuran can no longer be penalized for nonfiling of her SALNs for CYs 1995, 1997, and 1998 under R.A. 6713. In the case of *Del Rosario v. People*, We explained that **the prescriptive period for filing an action for violation of Section 8 of R.A. 6713 is eight (8) years pursuant to Section 1 of Act No. 3326.**

²⁶ *Del Rosario v. People*, 834 Phil. 419 (2018).

²⁷ *Id.* at 428. Emphasis supplied.

²⁸ 834 Phil. 419 (2018).

²⁹ G.R. No. 240137, September 9, 2020.

In *Department of Finance – Revenue Integrity Protection Service v. Ombudsman and Germar*,³⁰ where the DOF-RIPS likewise charged the accused under both Section 7 of RA No. 3019 and Section 8 of RA No. 6713, the Supreme Court again ruled that:

RA 6713 is a special law, thus, the computation of prescriptive periods for violation of RA 6713 is governed by Act 3326, in particular, Section 1(c) thereof, **which provides for an 8-year prescriptive period.**³¹

Following the aforementioned jurisprudential pronouncements, the prescriptive period for violations of Section 8 of RA No. 6713 is eight (8) years. The Office of the Ombudsman determined that the DOF-RIPS' complaint was filed thirteen (13) years after Gomez's omission to file his 2003 SALN. On the other hand, the DOF-RIPS posited that only eleven (11) years have lapsed from the deadline for Gomez to file his SALN. Notwithstanding the discrepancy between the periods alleged by the parties, both fall beyond the eight (8)-year prescriptive period in accordance with Act No. 3326. No grave abuse of discretion can be ascribed to the Office of the Ombudsman when it found that the offenses charged against Gomez have already prescribed.

II

Petitioner DOF-RIPS contended that public respondent Office of the Ombudsman acted with grave abuse of discretion amounting to a lack or excess of jurisdiction, considering that: a) private respondent Gomez's willful and deliberate assertions of falsehoods in his SALNs have not yet prescribed when the Complaint was filed; and b) the dates of discovery of the felonies cannot be the date when Gomez submitted his SALNs to the BOC, and should instead start from the DOF-RIPS' receipt of compliances from the government agencies having knowledge of the falsity of statements in the SALN.

II-A

In the Resolution dated June 23, 2017, the Ombudsman ruled, pertinent to the issue of prescription, that:

In *People v. Mariano Terrado, Remedios Gundran, and Gertrudes Obo*, the Supreme Court ruled that while the informations sufficiently alleged the commission of falsification of public documents under Article 171 of the Revised Penal Code, the offenses alleged to have been committed have already prescribed since the preparation and submission of false affidavits [are] also punishable as perjury. The Court adds that penal statutes, substantive and remedial or procedural are, by consecrated rule, to be strictly applied against the government and liberally in favor of the accused.

³⁰ G.R. No. 238660, February 3, 2021.

³¹ Emphasis supplied.

Applying the above-cited jurisprudence in the present case, since the crime of perjury prescribes in 10 years, respondent's willful and deliberate assertion of falsehood in his SALNs for the year 1996, 2004, 2005, and 2006 has already prescribed.

Hence, respondent should be indicted in court for three (3) counts of perjury and three (3) counts of falsification concerning his 2007, 2008, and 2009 SALNs.³²

Meanwhile, in its Order³³ dated October 20, 2017, the Office of the Ombudsman held that the prescription for Gomez's commission of falsification and perjury should be reckoned from the commission of the said offenses:

The prescriptive period will begin to run from discovery of the violation, only if the same is not known. Otherwise, it should begin to run from the day of the violation of the law.

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Further, since the falsification and perjury are based on respondent's violation of SALN laws (RA 3019 and RA 6713), applying by analogy the case of *PCGG v. Hon. Ombudsman Conchita Carpio Morales*, laying the guidelines in the determination of the reckoning period for the prescription of violations of RA 3019, the Supreme Court ruled that:

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*If the necessary information, data, or records based on which the crime could be discovered is readily available to the public, the general rule applies. Prescription shall, therefore, run from the date of the commission of the crime.*³⁴

Impervious to the Ombudsman's ruling, the DOF-RIPS submitted that the felony of falsification of public documents prescribes in fifteen (15) and not ten (10) years, and that the period of prescription should be reckoned from the date of their discovery and not the commission.

We find no merit in the petitioner's contention.

The Constitution and RA No. 6770, or the "The Ombudsman Act of 1989," endowed the Office of the Ombudsman with wide latitude, in the exercise of its investigatory and prosecutory powers, to pass upon criminal complaints involving public officials and employees. Specifically, the determination of whether probable cause exists is a function that belongs to the Office of the Ombudsman. Whether a criminal case, given its attendant facts and circumstances, should be filed or not is basically its call.³⁵

³² *Rollo*, pp. 58-59.

³³ *Id.* at 61-66.

³⁴ *Id.* at 63-65. Italics and underscoring in the original.

³⁵ *Casing v. Ombudsman*, 687 Phil. 468, 475 (2012).

As a general rule, the Court does not interfere with the Office of the Ombudsman's exercise of its investigative and prosecutorial powers, and respects the initiative and independence inherent in the Office of the Ombudsman which, beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service. While the Ombudsman's findings as to whether probable cause exists are generally not reviewable by this Court, where there is an allegation of grave abuse of discretion, the Ombudsman's act cannot escape judicial scrutiny under the Court's own constitutional power and duty to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.³⁶

The Ombudsman's exercise of power must have been done in an arbitrary or despotic manner in order to exceptionally warrant judicial intervention.³⁷

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Furthermore, the use of a petition for certiorari is restricted only to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.³⁸

Otherwise, this Court does not generally interfere with the Office of the Ombudsman's findings. Disagreement with its findings is not enough to constitute grave abuse of discretion. There must be a showing that it conducted its proceedings in such a way that amounted to a virtual refusal to perform a duty under the law.³⁹

Here, petitioner DOF-RIPS failed to show the existence of grave abuse of discretion when the Ombudsman found that the offenses arising from private respondent Gomez's assertions of falsehoods in his SALNs have already prescribed at the time of filing of the Complaint. The DOF-RIPS' position obviously deviates from the findings of the Ombudsman. However, such conflict is not sufficient to ascribe grave abuse of discretion on the part of the latter. Petitioner was not able to exhibit any specific act or omission on

³⁶ Id. at 475-476; and Article VIII, Section 1 of the Constitution.

³⁷ *Casing v. Ombudsman*, supra at 476.

³⁸ *Yu v. Reyes-Carpio*, 667 Phil. 474, 481-482 (2011); and *Radaza v. Sandiganbayan*, G.R. No. 201380, August 4, 2021.

³⁹ *Republic v. Ombudsman*, G.R. No. 198366, June 26, 2019 citing *Reyes v. Ombudsman*, 810 Phil. 106, 114 (2017).

the part of public respondent Office of the Ombudsman that would show capricious or whimsical exercise of judgment amounting to lack or excess of jurisdiction.

II-B

In its Resolution dated June 23, 2017, the Office of the Ombudsman held that the discovery of the crimes should be reckoned from the dates that Gomez intentionally omitted to declare his properties in his SALNs, thus:

With respect to the charge of Falsification and Perjury relative to respondent's 1996, 2004, 2005, and 2006 SALNs, **this Office is not persuaded by complainant's argument that the prescriptive period should commence from complainant's supposed discovery of the offenses in 2014, when it received the copy of the six (6) certificates of land title in the name of respondent from the Land Registration Authority (LRA).**

The transfer certificates of title (TCTs) were issued in the name of the respondent in 1996 (two lots) and 1998 (four lots). **When respondent deliberately omitted to declare these lots in his 1996, 2004, 2005, and 2006 SALNs, the commencement of the prescription of the crimes of falsification and perjury necessarily sets in in 1997, 2005, 2006, and 2007, respectively, considering that titles thereto were already registered in the name of respondent. This is in accordance with the prevailing jurisprudence that *registration in a public registry is a notice to the whole world. The record is constructive notice of its contents as well as all interests, legal and equitable, included therein. All persons are charged with knowledge of what it contains.***⁴⁰

The DOF-RIPS countered that the discovery of the felonies in this case cannot be reckoned from the date when Gomez submitted his SALNs to the BOC, and should instead be counted from the DOF-RIPS' receipt of compliances from the government agencies having knowledge of the falsity of statements in the SALN.

This Court rules against the petitioner.

We are constrained to rule against the DOF-RIPS in light of the prevailing doctrine in *Department of Finance – Revenue Integrity Protection Service v. Ombudsman and Germar*,⁴¹ which presented similar facts and circumstances as in this case. Quoting the comprehensive elucidation by the Honorable Justice Zalameda:

The prescriptive period for violation of Article 183 of the RPC, or perjury, is ten (10) years upon filing of the SALN.

Contrary to petitioner's claim, the OMB did not commit any grave abuse of discretion in ruling that the charges for perjury due to private

⁴⁰ *Rollo*, p. 64. Italics in the original, emphasis supplied.

⁴¹ *Supra* note 30.

respondent's non-disclosure in his 2002 to 2005 SALN had already prescribed.

The impossible penalty for perjury under Article 183 of the RPC is “arresto mayor in its maximum period to prision correccional in its minimum period,” which are correctional penalties. Thus, in relation to Article 90 of the RPC, perjury prescribes in ten (10) years.

The prescriptive period for crimes punishable under the RPC are [sic] counted from the time of discovery pursuant to Article 91 of the RPC. **In this case, however, discovery should be reckoned from the time of filing of the SALN because upon filing, perjury is deemed consummated. Once the SALN is filed, it is subject to review by the proper authorities. It is during the conduct of the review that errors or inaccuracies in the SALN may be determined. Ten (10) years is more than enough time to discover any such errors or inaccuracies.** Further, the date of filing as the date when the prescriptive period begins to run harmonizes the provisions of the RPC and Sec. 8(C)(4) of RA 6713:

SEC. 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.

xxx xxx xxx

(C) Accessibility of documents. –

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(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.

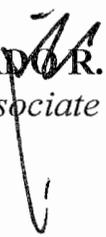
“[T]he statement may be destroyed unless needed in an ongoing investigation” after ten (10) years implies that the investigation should have commenced prior to the end of the ten-year period. In this case, the lifestyle check on private respondent was commenced in 2015 and the Joint Complaint-Affidavit was filed on 30 May 2016. Since more than (10) years had lapsed, prosecution for perjury for private respondent's SALNs for the years 2002-2005 is now barred by prescription.⁴²

Applying the foregoing doctrine, the discovery of falsification and perjury should be reckoned from the time of filing of the SALN. Therefore, the false assertions made by Gomez in his SALNs, which were submitted beyond the ten (10)-year prescription period before the filing of the Complaint on September 1, 2015, are now barred by prescription.

⁴² *Department of Finance – Revenue Integrity Protection Service v. Ombudsman and Germar*, G.R. No. 238660, February 3, 2021. Emphasis supplied.

WHEREFORE, premises considered, the Petition is **DENIED** and the assailed Resolution dated June 23, 2017 and Order dated October 20, 2017, issued by the Office of the Ombudsman, are hereby **AFFIRMED**.

SO ORDERED.

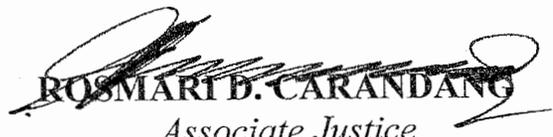


RICARDO R. ROSARIO
Associate Justice

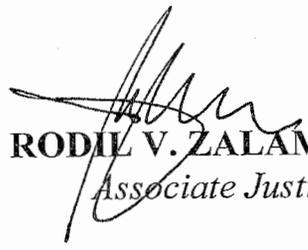
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



ROSMARI D. CARANDANG
Associate Justice



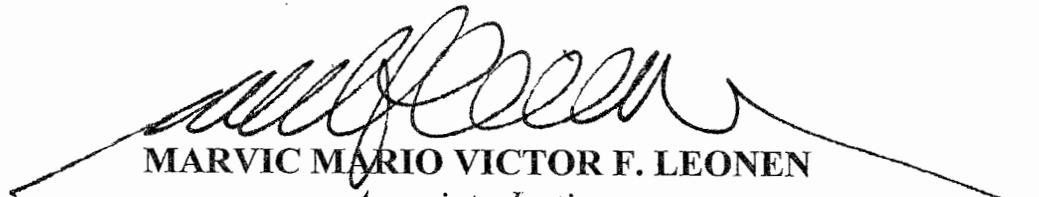
RODIL V. ZALAMEDA
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION

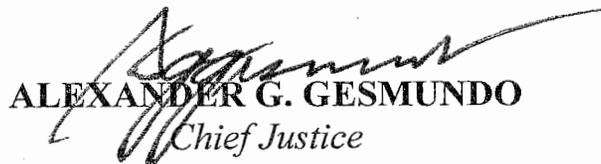
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

