



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**LUCIA MALICSE-HILARIA,**  
 Petitioner,

**G.R. No. 251680**  
 Present:

- versus -

LEONEN, J.,  
*Chairperson,*  
 CARANDANG,  
 ZALAMEDA,  
 ROSARIO, and  
 DIMAAMPAO,\* JJ.

**IVENE D. REYES, JONNE L.**  
**ADANIEL, ALVARO B.**  
**NONAN, NILO L. SUBONG, and**  
**CESAR S. GUARINO,**

Promulgated:

Respondents. November 17, 2021

*MisDCB*

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**DECISION**

**CARANDANG, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Lucia Malicse-Hilaria (Hilaria) assailing the Amended Decision<sup>2</sup> dated January 15, 2020 of the Court of Appeals (CA) in CA-G.R. CEB SP No. 11335, which dismissed the administrative charge against respondents Jonne L. Adaniel (Adaniel), Alvaro B. Nonan (Nonan), Nilo L. Subong (Subong), and Cesar S. Guarino (Guarino). Prior to that, the CA affirmed the Decision<sup>3</sup> dated August 25, 2017 of the Office of the Ombudsman (OMB) in OMB-V-A-16-0465 in its September 28, 2018 Decision,<sup>4</sup> but dismissed the administrative charge against respondent Ivene D. Reyes (Reyes).

\* Designated as additional Member per Special Order No. 2839 dated September 16, 2021.

<sup>1</sup> *Rollo*, pp. 8-27.

<sup>2</sup> Penned by Associate Justice Dorothy P. Montejo-Gonzaga, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Carlito B. Calpatura; id. at 29-38.

<sup>3</sup> Penned by Graft Investigation and Prosecution Officer III Luanne Ivy M. Cabatingan and approved by Deputy Ombudsman Paul Elmer M. Clemente; id. at 93-109.

<sup>4</sup> Penned by Associate Justice Louis P. Acosta, with the concurrence of Associate Justices Dorothy P. Montejo-Gonzaga and Pamela Ann Abella Maxino; id. at 40-56.

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### Antecedents

From 1908 to 1932, Ricardo Malicse was in possession of Lot No. 2816, a parcel of land with an area of 132,810 square meters (sq. m.) located at Barangay Napaan, Malay, Aklan. When he died, his daughter Castora M. Malicse (Castora) gained possession of Lot No. 2816. OCT No. CLOA-370<sup>5</sup> covering Lot No. 2816 was issued in Castora's name on December 9, 1992. After Castora's death in 2003, her daughter Hilaria and Hilaria's siblings took possession of Lot No. 2816.<sup>6</sup>

Sometime in January 2016, Forest Technician II Guarino and Land Management Services Inspector Nonan, pursuant to the instruction of Department of Environment and Natural Resources (DENR) – Provincial Environment and Natural Resources (PENR) Officer Reyes, informed Hilaria that Lot No. 2816 was classified as timber land. They told her that if she wanted it to be classified as alienable and disposable, she should see them at their office so they could rectify Lot No. 2816's status. On April 13, 2016, Lucia requested her cousin Vito Malicse (Vito) to file a request for the issuance of a certification regarding the status of Lot No. 2816.<sup>7</sup>

On April 20, 2016, Reyes issued a certification that Lot No. 2816 was surveyed in the name of Castora Malicse vs. Emilio Garcia.<sup>8</sup> Vito received the certification on April 28, 2016. The certification regarding the classification of Lot No. 2816 was held in abeyance pending its inspection and survey.<sup>9</sup> Reyes issued another Certification dated May 20, 2016 that Lot No. 2816 "was found to be within Project No. 13 Block-A TIMBERLAND[.]"<sup>10</sup> Guarino swore that he personally projected the land classification status. Adaniel was the administering officer.<sup>11</sup>

Pursuant to Hilaria's verbal request, Guarino and four other persons inspected Lot No. 2816 on May 27, 2016. Hilaria was asked to pay ₱25,000.00 to Guarino. She also gave money for food and drinks. Guarino instructed Hilaria to follow up the record of the survey at the PENR Office.<sup>12</sup>

Reyes issued a Certification on June 14, 2016 that from the area of 132,810 sq. m. of Lot No. 2816, it "was found that an area of 132,294 more or less is to be within Project No. 13 Block-A TIMBERLAND, while the remaining area of 516 square meters more or less is to be within ALIENABLE or DISPOSABLE area."<sup>13</sup> Hilaria and Vito went to the PENR Office. They spoke with Adaniel and Forester II Subong in Reyes' office, regarding the classification of Lot No. 2816. Adaniel and Subong demanded

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<sup>5</sup> Id. at 40-41.

<sup>6</sup> Id. at 95.

<sup>7</sup> Id.

<sup>8</sup> Id. at 41.

<sup>9</sup> Id. at 95.

<sup>10</sup> Id. at 41.

<sup>11</sup> Id. at 41.

<sup>12</sup> Id. at 95-96.

<sup>13</sup> Id. at 41.

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₱500,000.00 from Hilaria to declare Lot No. 2816 as alienable and disposable. Hilaria and Vito immediately left.<sup>14</sup>

On October 30, 2017, Reyes issued a Certification that “the mentioned area of 50,593 sq. m. Alienable and Disposable land mentioned on 6 June 2016 report is based only on the submitted technical description of the CLOA of Lot No. 2816 issued by the Department of Agrarian Reform (DAR) and not part of the findings of the DENR-PENRO, Aklan which contain only 516 sq. m. as Alienable and Disposable Area.”<sup>15</sup>

Hilaria filed a letter-complaint against respondents for violation of Section 3 (b), (c), (e), (f), and (g) of Republic Act (R.A.) No. 3019, or the Anti-Graft and Corrupt Practices Act, and Sections 4 (c) and 7(a) of R.A. No. 6713<sup>16</sup> or the Code of Conduct and Ethical Standards for Public Officials and Employees before the OMB.<sup>17</sup>

Respondents denied Hilaria’s allegations. They admitted that Hilaria’s representative filed an application for the issuance of a Certificate of Alienable and Disposable Land Classification of Lot No. 2816 on May 3, 2016. Guarino conducted an ocular inspection on May 19, 2016 and a certification was issued on May 23, 2016. Vito refused to receive the certification and threatened to file a complaint against Guarino. Guarino denied going to Hilaria’s house on May 27, 2016 and demanding ₱25,000.00. He submitted his daily time record (DTR) for May 2016 as proof.<sup>18</sup>

Respondents also claimed that Vito appeared before Adaniel to explain that Lot No. 2816 was not timber land but was alienable and disposable. He requested for another inspection. Adaniel acceded in order to give Hilaria peace of mind. An amended Inspection Report was submitted on June 6, 2016, under which 516 sq. m. of Lot No. 2816 was found to be alienable and disposable. Vito refused to receive the Certification regarding the amended report. Respondents claimed that the complaint was filed because they refused to grant Hilaria’s request which would have caused damage and prejudice to the government.<sup>19</sup>

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<sup>14</sup> Id. at 96.

<sup>15</sup> Id. at 41-42.

<sup>16</sup> Section 7. *Prohibited Acts and Transactions.* – In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) *Financial and material interest.* – Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office. x x x

<sup>17</sup> *Rollo*, p. 42.

<sup>18</sup> Id. at 96-97.

<sup>19</sup> Id. at 97.

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### **Ruling of the Ombudsman**

On August 25, 2017, the OMB rendered its Decision<sup>20</sup> with the following ruling:

**WHEREFORE, respondents IVENE DOLAR REYES, JONNE LUCES ADANIEL, ALVARO BORJA NONAN, NILO LEYSA SUBONG and CESAR SAMPIANO GUARINO are hereby meted the penalty of DISMISSAL FROM SERVICE, WITH FORFEITURE OF ALL BENEFITS, PERPETUAL DISQUALIFICATION TO HOLD PUBLIC OFFICE AND CANCELLATION OF ALL CIVIL SERVICE ELIGIBILITIES.**

In the event that the penalty of Dismissal can no longer be enforced due to separation from the service of any of the respondents, the same shall be converted into a FINE in the amount equivalent to the separated respondent's salary for one (1) year, payable to the Office of the Ombudsman, and may be deductible from such respondent's accrued leave credits or any receivable from his/her office. It shall be understood that the accessory penalties attached to the principal penalty of Dismissal shall continue to be imposed.

Accordingly, **the REGIONAL DIRECTOR OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES – REGIONAL OFFICE NO. VI** is hereby directed to **implement** the above Decision against respondents **IVENE DOLAR REYES, JONNE LUCES ADANIEL, ALVARO BORJA NONAN, NILO LEYSA SUBONG and CESAR SAMPIANO GUARINO**, with the request to submit to this Office within five (5) days, through the Office of the Deputy Ombudsman for the Visayas, Department of Agriculture RO-7 Compound, M. Velez St., Guadalupe, 6000 Cebu City, a **Compliance Report** hereof, indicating the subject OMB case number.

Compliance is respectfully enjoined, consistent with Section 3 (e) of R.A. 3019 (Anti-Graft and Corrupt Practices Act) and Section 15 (3) of R.A. 6770 (Ombudsman Act of 1989).

Let copies of the above Decision be furnished to the Regional Offices of the Commission on Audit and the Civil Service Commission, both of Region VI, as well as the Government Service Insurance System – Aklan Branch, for their information.

**SO ORDERED.**<sup>21</sup> (Emphasis in the original)

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<sup>20</sup> Id. at 93-109.

<sup>21</sup> Id. at 108-109.



The OMB ruled in favor of Hilaria. The OMB held that respondents, in their official capacities, are involved in the process of inspection and verification of land classification, generation of the corresponding reports and documentation, and issuance of the corresponding certification upon the request and compliance with requirements of the interested parties. The parties all agree that Hilaria and Vito were informed of the classification of Lot No. 2816 as timber land. The OMB noted that while Guarino denied going to Hilaria's house on May 27, 2016, respondents admitted that another site inspection was conducted after Vito or Hilaria appeared before Adaniel "sometime during the remaining days of May 2016." May 27 certainly falls in between May 23, 2016 when Vito learned of the classification of Lot No. 2816, and June 6, 2016, when the amended Inspection Report was submitted. As for Guarino's DTR, it does not indicate his true location during office hours, whether he is in the field or at the office. On May 19, 2016, when he supposedly conducted a site inspection of Lot No. 2816, Guarino's DTR states that he was at the PENR Office from 7:50 a.m. to 5:30 p.m. Consequently, the OMB did not give the DTR any value.<sup>22</sup> The OMB also considered doubtful that respondents would conduct another site inspection just to give Hilaria peace of mind because site inspections are not free unless they are the projects of the DENR or mandated by the law or the government.<sup>23</sup>

The OMB further held that respondents confirmed having three findings: (1) Lot No. 2816 is entirely Timber land - based on the ocular inspection and using GIS Arc Map projection as well as the sketch plan prepared by Engr. Santiago; (2) Only 516 sq. m. is alienable and disposable - based on data gathered from onsite verification; and (3) 50,593 sq. m. is alienable and disposable - based on the review of OCT No. CLOA-370 and by plotting the tie line based on the technical description in the OCT. The OMB wondered why the first finding and the third finding were so different even though the first finding was based on Engr. Santiago's sketch plan while the third finding was based on the OCT, which in turn was made using the sketch plan prepared by Engr. Santiago. The first and the second findings were both made using onsite verification and yet they are also vastly different. For the OMB, the varying findings make respondents' claims questionable. It supports Hilaria's claim that respondents demanded money in exchange for classifying Lot No. 2816 as alienable and disposable. Furthermore, the sketch plan submitted by respondents have notable differences from the one submitted by Hilaria. The former is missing some significant indicators such as the marking for the latitudinal and longitudinal lines and the landmarks. The OMB held that this undermines respondent's findings on Lot No. 2816. The OMB also noted that reversion proceedings were not instituted regarding Lot No. 2816.<sup>24</sup>

The OMB ruled that respondents violated Section 7(d) of R.A. No. 6713 which prohibits the solicitation or acceptance, directly or indirectly, of

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<sup>22</sup> Id. at 99-101.

<sup>23</sup> Id. at 105.

<sup>24</sup> Id. at 102-105.

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any gift, gratuity, favor, entertainment, loan, or anything of monetary value from any person in the course of the public official's duties. The fact that Hilaria charged respondents with violation of Section 7(a) of R.A. No. 6713 is immaterial because the allegations of the acts are controlling and not the designation of the offense. Hilaria's pleadings were clear as to the acts complained of.<sup>25</sup> However, respondents cannot be held liable for violation of Section 4(c) of R.A. No. 6713 because this provision simply sets the norms of conduct that public officials and employees must observe.<sup>26</sup> The OMB imposed the penalty of dismissal pursuant to Section 11<sup>27</sup> of R.A. No. 6713.<sup>28</sup> Respondents filed a petition for *certiorari* with the CA to assail the ruling of the OMB.

Also on August 25, 2017, the OMB found probable cause to indict respondents for violation of Section 3(B) of R.A. No. 3019 in OMB-V-C-16-0394.<sup>29</sup>

### Ruling of the Court of Appeals

On November 22, 2017, the CA dismissed the petition for *certiorari* because this was the wrong mode of appeal.<sup>30</sup> Respondents filed a motion and the CA reinstated the appeal in its Resolution dated January 31, 2018.<sup>31</sup> This was because the allegations in respondents' petition showed that they were appealing the OMB's ruling. In addition, respondents were meted a penalty of dismissal. Hence, the CA opted to relax the rules to attain the ends of substantial justice. Respondents subsequently filed an amended petition.<sup>32</sup>

On September 28, 2018, the CA rendered its Decision,<sup>33</sup> the *fallo* of which provides:

**ACCORDINGLY**, the petition is **GRANTED** in part.

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<sup>25</sup> Id. at 106-107.

<sup>26</sup> Id. at 99.

<sup>27</sup> 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. (b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him. x x x

<sup>28</sup> *Rollo*, p. 107.

<sup>29</sup> Id. at 126.

<sup>30</sup> Id. at 146.

<sup>31</sup> Id. at 149-152.

<sup>32</sup> Id. at 45-46.

<sup>33</sup> Id. at 40-56.



The Decision dated 25 August 2017 of the Office of the Ombudsman (Visayas) in OMB-V-A-16-0465 is **AFFIRMED with MODIFICATION** to dismiss the administrative charge against petitioner Ivene Dolar Reyes.

SO ORDERED.<sup>34</sup> (Emphasis in the original)

The CA held that there was substantial evidence to support the findings of the OMB. The CA agreed with the OMB that the different methods used by respondents raised a valid suspicion as to the propriety of the first finding. Respondents did not explain these differences. The different methods should not have resulted in such inconsistent results. The CA noted that respondents admitted that they deviated from the proper procedure of the DENR by agreeing to the verbal request for another inspection.<sup>35</sup>

However, Reyes cannot be held liable. The only pieces of evidence against him are Hilaria's complaint and Vito's Affidavit. Both documents do not specifically state that Reyes demanded the money together with the other respondents. There was no evidence proving that Reyes instructed respondents to demand money from Hilaria. Reyes even issued a certification that the third finding was based on the submitted technical description of Lot No. 2816 issued by the Department of Agrarian Reform and was not made by the DENR-PENRO.<sup>36</sup>

Hilaria filed a motion for reconsideration of the Resolution of the CA submitting the case for decision. She argued that Reyes conspired with the other respondents so he should be held administratively liable as well. Respondents, except for Reyes, also filed a motion for reconsideration wherein they prayed for the dismissal of the administrative charge against them because Hilaria failed to present substantial evidence.<sup>37</sup> On January 15, 2020, the CA denied Hilaria's motion but granted respondents' motion in its Resolution,<sup>38</sup> to wit:

**WHEREFORE**, the respondent's *Motion for Reconsideration* of this Court's *Decision* dated September 28, 2018, is **DENIED** for lack of merit.

Furthermore, the *Partial Motion for Reconsideration* filed by petitioners Jonne L. Adaniel, Alvaro B. Nonan, Nilo L. Subong and Ceasar Guarino, is **GRANTED**. This Court's earlier *Decision* dated September 28, 2018, is **MODIFIED**. The *Decision* of the Ombudsman is hereby reversed and set aside with regard to the dismissal of petitioners Adaniel, Nonan, Subong and Guarino from service. Consequently, petitioners Adaniel,

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<sup>34</sup> Id. at 55-56.

<sup>35</sup> Id. at 54-55.

<sup>36</sup> Id. at 48-51.

<sup>37</sup> Id. at 31.

<sup>38</sup> Id. at 29-38.

Nonan, Subong and Guarino are absolved from any administrative liability.

**SO ORDERED.**<sup>39</sup> (Emphasis in the original)

The CA found that it was not proven by substantial evidence that Adaniel, Nonan, Subong, and Guarino violated Section 7(d) of R.A. No. 6713. *First*, Hilaria and Vito do not appear on the official logbook of visitors of the PENR Office on the day that they allegedly visited. Even if they were there, Adaniel was absent because he attended a session of the Provincial Mine Rehabilitation Fund Committee. *Second*, the October 13, 2017 Certification clarified that the PENRO did not come up with the third finding. It was the DAR that made such finding. The discrepancy between the first finding and the second finding is too minor to prove that respondents solicited money from Hilaria. *Third*, Guarino's DTR, which is an official document, is sufficient proof that he did not visit Hilaria on May 27, 2016. Hilaria's self-serving assertions are not adequate proof of respondents' violation.<sup>40</sup>

### ***Petitioner's arguments***

Hilaria filed a motion for reconsideration of the CA's Resolution. When the CA denied it, she filed a petition for review on *certiorari* before this Court to assail the ruling of the CA. Respondents filed a Comment<sup>41</sup> in response.

Hilaria argued *first*, that the CA erred in concluding that Hilaria and Vito did not go the PENR Office just because their names do not appear in the logbook. Security protocols, such as requiring visitors to sign the logbook, are not judiciously followed at all times. Moreover, Hilaria and Vito were known to the officials and employees of PENR Office. In any case, they should not be faulted if they did not sign the logbook because it was PENRO's duty to ensure that they did.<sup>42</sup>

*Second*, the Provincial Capitol is just 5 to 10 minutes away from the PENR Office. Hence, Adaniel could have been present during the incident even though he attended a seminar that day. *Third*, Guarino's DTR does not prove that he was in the office on May 27, 2016. He could have conducted an onsite inspection and survey, which is his primary function as a Forest Technician II. Hilaria's residence is only two hours away from the PENR Office.<sup>43</sup>

*Third*, the performance of a public official or employee of their function is always coupled with a special or letter order from the head of the concerned agency. Thus, respondents' acts were known to Reyes and were

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<sup>39</sup> Id. at 37-38.

<sup>40</sup> Id. at 34-37.

<sup>41</sup> Id. at 322-331.

<sup>42</sup> Id. at 14.

<sup>43</sup> Id. at 15.

done pursuant to his instructions. In fact, Reyes issued three (3) certifications regarding the classification of Lot No. 2816. Vito also said that Reyes was present when Adaniel, Nonan, Subong, and Guarino demanded ₱500,000.00 from him and Hilaria.<sup>44</sup>

*Fourth*, the denial and alibi of respondents are weak defenses that cannot prevail over Hilaria's positive identification. The credibility of the evidence belatedly submitted by respondents is questionable because these could have been presented at the earliest opportunity. Respondents did not give any explanation for its late submission. Hilaria and Vito's positive narration should have been given more weight. Respondents conspired with one another to commit the crime of solicitation and/or acceptance of gifts under Section 7(d) of R.A. No. 6713. They willfully and unlawfully solicited and accepted money from Hilaria in exchange for the issuance of the certification of the land classification. Their acts constitute manifest partiality, evident bad faith, or gross inexcusable negligence resulting in undue injury to the government.<sup>45</sup>

*Fifth*, respondents availed of the wrong mode of appeal. The CA should not have tolerated their gross ignorance of the law. Since respondents failed to avail of the correct mode of appeal, the decision of the OMB has become final and executory. Thus, Hilaria prays that the OMB's decision in OMB-V-A-16-0465 be affirmed, and respondents be held liable for violation of Section 7(d) of R.A. No. 6713.<sup>46</sup>

### ***Respondents' arguments***

*First*, respondents argued that Hilaria's petition was filed out of time. She had until February 22, 2020 to file her petition for review on *certiorari* but only filed her motion for extension on February 24, 2020. Consequently, the original period for filing has already lapsed when she filed her petition for review on *certiorari*.<sup>47</sup> *Second*, Hilaria herself signed her petition. She was not assisted by a counsel. This constitutes unauthorized practice of law.<sup>48</sup> *Third*, there was no sufficient proof of Hilaria's payment of the docket and other lawful fees in the copy of the petition given to respondents.<sup>49</sup> *Fourth*, the petition raises factual issues which are not cognizable pursuant to Section 1, Rule 45 of the Rules of Court. The Court is not a trier of facts. Moreover, the CA exhaustively and thoroughly passed upon the factual issues in this case.<sup>50</sup> *Fifth*, the CA correct is correct in relaxing the rules in favor of respondents, considering that they were meted with the penalty of dismissal. A relaxation of the rules is allowed to accommodate the broader interest of justice.<sup>51</sup>

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<sup>44</sup> Id. at 15-17.

<sup>45</sup> Id. at 15-16.

<sup>46</sup> Id. at 18-22.

<sup>47</sup> Id. at 323-325.

<sup>48</sup> Id. at 325-326.

<sup>49</sup> Id. at 325.

<sup>50</sup> Id. at 326-329.

<sup>51</sup> Id. at 329-331.

### Issue

The issue in this case is whether the CA erred in dismissing the complaint against respondents.

### Ruling of the Court

The petition is meritorious.

Preliminarily, the Court clarifies that Hilaria's petition was filed on time. Hilaria received the Amended Decision of the CA on February 7, 2020<sup>52</sup> so she had until February 22, 2020 to file her petition for review on *certiorari*. February 22, 2020 is a Saturday. Under Section 1, Rule 22 of the Rules of Court, if the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. Hilaria filed her motion for extension on February 24, 2020, the next working day after February 22, 2020. Hence, it was timely filed. As for Hilaria's filing of her petition without the assistance of counsel, the same is not prohibited under the Rules of Court.

Respondents are correct that Hilaria raised questions of fact in her petition. The Court would not have entertained these issues if not for the contrasting findings of fact made by the OMB and the CA.<sup>53</sup>

The OMB found respondents administratively liable for violation of Section 7(d) of R.A. No. 6713, which states:

SECTION 7. *Prohibited Acts and Transactions.* –

In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

(d) *Solicitation or acceptance of gifts.* – Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to:



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<sup>52</sup> Id. at 9.

<sup>53</sup> *Office of the Ombudsman v. Tanco*, G.R. No. 233596, September 14, 2020.

- (i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;
- (ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or
- (iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

The elements of Section 7(d), R.A. No. 6713 are: (a) the accused is a public official or employee; (b) he or she solicited or accepted any loan or anything of monetary value from any person; and (c) the act was done in the course of the accused's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office.<sup>54</sup>

Respondents, as officials of the DENR-PENRO, were responsible for determining the classification of Lot No. 2816. Thus, the existence of the first and third elements are not in question in this case. However, respondents deny the presence of the second element that they demanded money from Hilaria to issue a certification that Lot No. 2816 was classified as alienable and disposable.

The Court gives credence to Hilaria's claim that she sought certification regarding the classification of Lot No. 2816 because Guarino and Nonan informed her that it was classified as timber land. OCT No. CLOA-370, which covers Lot No. 2816, was issued in the name of Castora pursuant to R.A. No. 6657, or the Comprehensive Agrarian Reform Law of 1998. The lands covered under Section 4 of R.A. No. 6657 are lands of public domain that are suitable for agriculture, specifically:

- a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain.
- b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
- c) All other lands owned by the Government devoted to or suitable for agriculture; and
- d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

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*Villanueva v. People*, G.R. No. 237738, June 10, 2019.

Clearly then, a land classified as timber land is not covered by R.A. No. 6657. The issuance of OCT No. CLOA-370 to Castora means that Lot No. 2816 is not timber land but agricultural land. It is unlikely that Hilaria would need a certification regarding the classification of Lot No. 2816 unless she was given reason to question it several years after the issuance of OCT No. CLOA-370. The Court is inclined to believe that Nonan and Guarino's act of informing Hilaria that Lot No. 2816 is timber land, is what prompted her to seek a certification from the DENR-PENRO. No other plausible explanation was offered as to why Hilaria would suddenly need a certificate regarding the classification of Lot No. 2816 when she was already in possession of OCT No. CLOA-370. It is noteworthy that there is no mention of reversion proceedings concerning Lot No. 2816.

The conduct of the second inspection by respondents is likewise questionable. Though respondents denied that an inspection was conducted by Guarino on May 27, 2016, they admitted that another inspection was conducted after Vito made a verbal request for it "in the remaining days of May 2016." The reason for the second inspection was to give Hilaria peace of mind.<sup>55</sup> As observed by the Ombudsman, it is incredulous that respondents would acquiesce to a second inspection that was verbally made by a man who insulted them simply to appease Hilaria. Respondents did not explain if a second inspection is usually done if the owner of the lot contests the findings of the first inspection, and if it may be requested verbally.

Moreover, respondents failed to explain the discrepancies in their findings. The Certification dated May 20, 2016 provides that Lot No. 2816 is timber land based on the GIS Arc Map projection conducted by Guarino, the sketch plan prepared by Engr. Santiago, and L.C. Map No. 2922 under FAO No. 4-1529 dated October 15, 1980.<sup>56</sup> Another certificate was issued on June 14, 2016 stating that 516 sq. m. out of 132,810 sq. m. of Lot No. 2816 is alienable and disposable. This was based on the GIS Arc Map projection conducted by Guarino, the L.C. Map No. 2922 under FAO No. 4-1529 dated October 15, 1980, and the sketch plan prepared by Engr. Santiago.<sup>57</sup> Respondents did not explain the reason why their findings changed even though both certifications referred to the sketch plan and the L.C. Map. Also, both GIS Arc Map projections were conducted by Guarino. Further, it is baffling why Lot No. 2816 would suddenly be reclassified to timber land more than two decades after the issuance of OCT No. CLOA-370. It is notable that the L.C. Map was issued in 1980, which was prior to the issuance of OCT No. CLOA-370 in 1992. Respondents did not identify the factors that would explain these discrepancies. The unexplained variances in the different certificates prepared by respondents give weight to Hilaria's claim that they were simply trying to extract money from her.

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<sup>55</sup> *CA rollo*, p. 83.

<sup>56</sup> *Id.* at 329.

<sup>57</sup> *Id.* at 412.



Vito and Hilaria both attested that respondents demanded the payment of ₱500,000.00 in exchange for classifying Lot No. 2816 as timber land. Prior to this, Guarino and Nonan asked for ₱25,000.00 for the site inspection. Though respondents vehemently denied this, the foregoing circumstances lend credence to Hilaria's claim against them. The requirement of substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,<sup>58</sup> has been satisfied in this case. Hence, the CA erred in reversing the findings of the OMB.

Section 11(b) of R.A. No. 6713 states that “[a]ny violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.” Section 46 of the Revised Uniform Rules on Administrative Cases in the Civil Service (RRACS)<sup>59</sup> likewise imposes the penalty of dismissal for the grave offense of “Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her office.” Accordingly, the penalty that must be meted upon respondents is dismissal. Respondents are also subject to the following penalties pursuant to Section 52 of the RRACS: cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations. Notably, these are the same penalties imposed by the OMB in its Decision dated August 25, 2017.

However, the Court cannot entertain Hilaria's prayer to affirm the OMB's August 25, 2017 Decision in OMB-V-C-16-0394 finding probable cause to charge respondents with violation of Section 3(B) of R.A. No. 3019. Petitioners assailed the Decision of the CA in CA-G.R. CEB SP No. 11335, the subject of which is only the Decision of the OMB in OMB-V-A-16-0465, or the administrative charge against respondents. Hence, the Court can only rule on the administrative charge against petitioners.

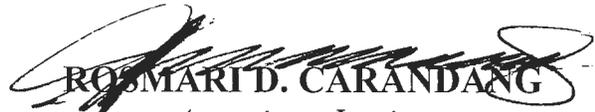
**WHEREFORE**, the petition is **GRANTED**. The Decision dated September 28, 2018 and the Amended Decision dated January 15, 2020 of the Court of Appeals in CA-G.R. SP No. 11335 are **REVERSED** and **SET ASIDE**. The Decision dated August 25, 2017 and the Resolution dated December 1, 2017 of the Office of the Ombudsman in OMB-V-A-16-0465 finding respondents Ivone D. Reyes, Jonne L. Adaniel, Alvaro B. Nonan, Nilo L. Subong, and Cesar S. Guarino **GUILTY** of violation of Section 7 (d) of Republic Act No. 6713 and imposing upon them the penalty of dismissal, cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations, are **REINSTATED**.

<sup>58</sup> Section 5, Rule 133, Revised Rules on Evidence

<sup>59</sup> CSC Resolution No. 1101502, November 8, 2011.

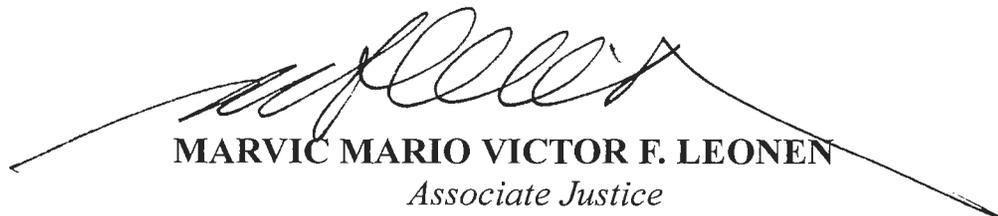


**SO ORDERED.**

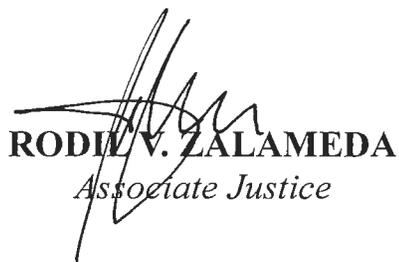


**ROSMARID. CARANDANG**  
*Associate Justice*

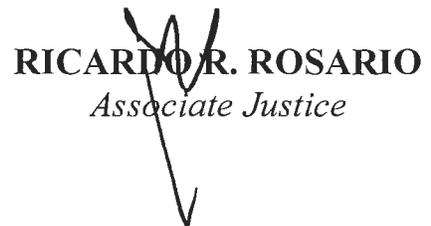
**WE CONCUR:**



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*



**RODIL V. ZALAMEDA**  
*Associate Justice*



**RICARDO R. ROSARIO**  
*Associate Justice*



**JAPAR B. DIMAAMPAO**  
*Associate Justice*

**ATTESTATION**

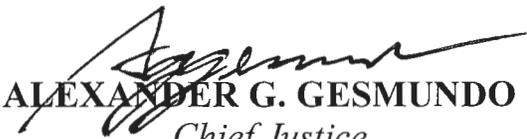
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*

**CERTIFICATION**

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



**ALEXANDER G. GESMUNDO**  
*Chief Justice*