



Republic of the Philippines  
Supreme Court

Manila

THIRD DIVISION

DEPARTMENT OF FINANCE-  
REVENUE INTEGRITY  
PROTECTION SERVICE,  
represented by JESUS S. BUENO  
AND REYNALITO L. LAZARO,  
*Petitioner,*

G.R. No. 262488

Present:  
CAGUIOA, J., Chairperson,  
INTING,  
GAERLAN,  
DIMAAMPAO, and  
SINGH, JJ.

- versus -

Promulgated:

June 14, 2023

*Misericordia*

OFFICE OF THE  
OMBUDSMAN AND  
CHRISTOPHER L. PATRICIO,  
CUSTOMS OPERATIONS  
OFFICER II, BUREAU OF  
CUSTOMS,

*Respondents.*

X-----X

DECISION

SINGH, J.:

Before the Court is a Petition for *Certiorari*<sup>1</sup> (**Petition**) filed by the Department of Finance (**DOF**) – Revenue Integrity Protection Service (**RIPS**), assailing the Joint Resolution<sup>2</sup> and the Joint Order,<sup>3</sup> dated November

<sup>1</sup> *Rollo*, pp. 3-36.

<sup>2</sup> *Id.* at 48-61. Approved by Overall Deputy Ombudsman Warren Rex H. Liang.

<sup>3</sup> *Id.* at 62-73.

26, 2021, and May 17, 2022, respectively of the Office of the Ombudsman (**Ombudsman**) in OMB-C-C-19-0019, OMB-C-C-19-0153, and OMB-C-F-19-0002. The assailed Joint Resolution dismissed the criminal and forfeiture charges against respondent Christopher L. Patricio (**Patricio**).

### *The Facts*

The DOF-RIPS, through their officers, and in line with their functions, conducted a lifestyle check on Patricio.<sup>4</sup> It found that Patricio started his career with the Bureau of Customs (**BOC**) as a Utility Worker I on July 2, 1990. Subsequently, he became a security guard of the BOC on July 14, 2000. On October 3, 2018, Patricio was appointed as Customs Operations Officer II.<sup>5</sup>

The Statements of Assets, Liabilities, and Net Worth (**SALN**) from the years 2006 to 2016, obtained by the DOF-RIPS, show that his income is manifestly out of proportion in relation to his total assets. The unexplained wealth of Patricio equated to ₱ 8,708,605.66:<sup>6</sup>

#### **Annual Net Worth v. Known Sources of Funds of Spouses Patricio<sup>7</sup>**

| YEAR                | Christopher's Annual Income (A) | Loan Proceeds / Sale of Properties (B) | Total Annual Income (C=A+B) | Net Worth (D) | Changes in Net Worth (E) | Unexplained Wealth (Total Sources of Income – Changes in Net Worth) (F=C-E) |
|---------------------|---------------------------------|--|-----------------------------|---------------|--------------------------|---|
| 2006<br>(base year) | ₱ 138,847.00                    | --                                     | ₱ 138,847.00                | ₱ 517,500     |                          |   |
| 2007                | 144,693.00                      | --                                     | 144,693.00                  | 1,037,500.00  | 520,000.00               | - 375,307.00  |
| 2008                | 155,691.00                      | 355,500.00                             | 511,191.00                  | 887,500.00    | - 150,000.00             |   |
| 2009                | 166,351.00                      | 32,435.34                              | 198,786.34                  | 2,597,500.00  | 1,710,000.00             | - 1,511,213.66  |
| 2010                | 177,140.00                      | 38,832.15                              | 215,972.15                  | 2,710,972.00  | 113,472.00               |   |
| 2011                | 189,946.00                      | --                                     | 189,946.00                  | 6,429,706.00  | 3,718,734.00             | - 3,528,788.00  |
| 2012                | 196,365.00                      | 3,040,000.00                           | 3,236,365.00                | 6,695,636.60  | 265,930.60               |   |
| 2013                | 201,739.00                      | 161,846.80                             | 363,585.80                  | 6,833,638.86  | 138,002.26               |   |
| 2014                | 203,591.00                      | 810,000.00                             | 1,013,591.00                | 6,124,638.86  | - 709,000.00             |   |
| 2015                | 211,223.00                      | 483,400.00                             | 694,623.00                  | 10,112,558.86 | 3,987,920.00             | - 3,293,297.00  |
| 2016                | 381,262.00                      | 1,408,200.00                           | 1,789,462.00                | 1,450,318.86  | 1,337,760.00             |   |
|                     |                                 |  |                             |               |                          | 8,708,605.66  |

<sup>4</sup> Id. at 6, Petition for *Certiorari*.

<sup>5</sup> Id.

<sup>6</sup> Id. at 49, Joint Resolution.

<sup>7</sup> Id. at 50.

The DOF-RIPS further claims that Patricio and his wife, Ma. Rosario Alamillo Patricio (collectively, the **Spouses Patricio**), engaged in several businesses. Some of these businesses were not disclosed in some of Patricio's SALNs. As to how they came up with a large capital to put up their businesses, which include buying and selling of cars, is suspicious.<sup>8</sup>

In coordination with the Land Registration Authority, the Land Transportation Office, the Department of Trade and Industry, the Securities and Exchange Commission, and several more government agencies, the DOF-RIPS revealed, among others, that Patricio either failed to disclose or falsely declared in his SALN, 10 real properties and 6 vehicles. His SALNs for the years 2009 to 2016 also show that Patricio did not declare in his SALNs any cash on hand or cash in any bank, despite being employed and engaged in several businesses.<sup>9</sup> Lastly, Patricio failed to secure the necessary travel authorities for his six trips abroad.<sup>10</sup>

For his part, Patricio claims that all the declarations in his SALNs are true and correct. Moreover, the assets therein were acquired within their financial capacity, and through lawful means.<sup>11</sup> Particularly, Patricio claims that some of the real properties were purchased and registered in his name by his deceased father without his consent and knowledge.<sup>12</sup> He further claims that the vehicles are registered in his name as part of his buy-and-sell business.<sup>13</sup>

The contracting allegations of the parties are summarized as follows:

|   | Allegations by the DOF-RIPS <sup>14</sup>   | Patricio's Counter-Affidavit <sup>15</sup>   |
|---|---|--|
| a | Failure to declare his lot covered by TCT No. T-48594 in his SALNs for 1995 to 2011;                        | Bought by Patricio's father without his knowledge or consent; discovered by Patricio in 2012;  |
| b | Failure to declare his lot covered by TCT No. T-47135 in his SALNs for 1995 to 2016;                        | Bought by Patricio's father without his knowledge or consent; discovered by Patricio in 2000; sold in 2004;  |
| c | Failure to declare his lot covered by TCT No. 060-2012004125 in his SALNs for 2011 for ( <i>sic</i> ) 2013; | Bought through financing in 2011; registered to the Spouses Patricio's name in 2012; sold in 2013 after full payment of the balance; failure to declare in 2012 and 2013 were not malicious; |

<sup>8</sup> Id. at 50-51, Joint Resolution. .

<sup>9</sup> Id. at 20-23, Petition for *Certiorari*.

<sup>10</sup> Id. at 7-9, Petition for *Certiorari*.

<sup>11</sup> Id. at 54, Joint Resolution. .

<sup>12</sup> Id. at 23, Petition for *Certiorari*.

<sup>13</sup> Id. at 307-308, Counter-affidavit.

<sup>14</sup> Id. at 7-9, Petition for *Certiorari*.

<sup>15</sup> Id. at 301-309, Counter-affidavit.

|   |  |   |
|---|--|---|
| d | Failure to declare his lot covered by TCT No. 060-2012004126 in his SALNs for 2011 to 2013;  | Bought through financing in 2011; registered to their name in 2012; sold in 2013 after full payment of the balance; failure to declare in 2012 and 2013 were not malicious;   |
| e | Failure to declare his lot covered by TCT No. 060-2015021975 in his SALNs for 2014 to 2015;  | It was declared in 2014 as Blk. 40, Lot 18, Parkway Setting, Nuvali, Sta. Rosa, Laguna;   |
| f | Failure to declare his lot covered by TCT No. T-1292336 in his SALN for 2011;  | Bought by Patricio's father without his knowledge or consent; discovered by Patricio in 2009;   |
| g | False declaration in the acquisition cost of his lot covered by TCT No. T-1292336 in his SALNs for 2009 and 2010;                        | Relied on his father's statement that the acquisition cost was PHP 2.5 million;   |
| h | Failure to declare his lot covered by TCT No. 256205 in his SALNs for 1994 and 1995;   | Bought by Patricio's father without his knowledge or consent; discovered by Patricio in 2000;   |
| i | Failure to declare his Parañaque Property in his SALNs for 2001 to 2015;   | Does not belong to the Spouses Patricio, but to his uncle, Edwin Patricio; they verbally agreed to transfer the ownership to Patricio because of non-payment of the loan by his uncle; declared in 2016, however, his uncle refused to execute the necessary documents; |
| j | Failure to declare TCT No. 68616 registered in the name of his minor children in his SALNs for 1998 to 2010;                             | Registered in the name of Patricio's parents in trust for Patricio's minor children; learned and declared in 2015 SALN; sold in 2016 without his knowledge;   |
| k | Failure to declare his vehicle Honda CRV in his SALNs for 2003 to 2016;  | Part of the buy-and-sell business; Sold in 2003;  |
| l | Failure to declare his vehicle Hyundai Elantra in his SALNs for 2011 to 2016;  | Part of the buy-and-sell business; Sold in the same year registered in Patricio's name;   |
| m | Failure to declare his vehicle 2004 Toyota Previa in his SALNs for 2014 to 2015;   | Sold in 2013;   |
| n | False declaration of the year of acquisition of his 2004 Toyota Previa in his SALNs for 2011 to 2014;                                    | ---   |
| o | Failure to declare his vehicle Isuzu Trooper in his SALNs for 2003 to 2016;  | Part of the buy-and-sell business; Sold in the same year registered in Patricio's name;   |
| p | Failure to declare his vehicle Montero Sport in his SALNs for 2010 to 2016;  | ---   |
| q | Failure to declare his Cash on Hand/Cash in Bank in his SALNs for 2009 to 2016;  | Cash is always devoted to the buy-and-sell business (hence, Patricio was never liquid); and to the expenses for the family;   |
| r | Failure to secure the necessary travel authorities, pursuant to Executive Order No. 6, series of 1986, for his six (6) trips abroad; and | ---   |



|   |   |     |
|---|---|-----|
| s | Violation of the travel authority issued to him for his personal trip to Canada from December 26, 2016, to January 9, 2017. | --- |
|---|---|-----|

As regards the claim that Patricio did not have personal knowledge of the properties bought by his deceased father, the DOF-RIPS countered that Patricio did not present proof of his father's death. Thus, the statements allegedly made by his father are hearsay.<sup>16</sup>

A Joint Complaint-Affidavit was filed against Patricio on December 4, 2018.<sup>17</sup>

### *The Ruling of the Ombudsman*

On November 26, 2021, the Ombudsman, through the assailed Joint Resolution, dismissed the charges against the Spouses Patricio:

WHEREFORE, the criminal and forfeiture charges against respondents are DISMISSED.<sup>18</sup>

The Ombudsman found that the DOF-RIPS failed to substantiate its allegation that Patricio's assets were manifestly out of proportion to his income.<sup>19</sup> The Ombudsman took into consideration several loans taken out by Patricio. These loans show that the Spouses Patricio's properties are not manifestly out of proportion to their lawful income.<sup>20</sup> Anent the undeclared assets, the Ombudsman found that there was no willful intent on the part of Patricio to conceal the same.<sup>21</sup>

The Ombudsman, through a Joint Order, denied the Motion for Reconsideration filed by the DOF-RIPS:

WHEREFORE, the Motion for Reconsideration (of the Joint Resolution dated 26 November 2021) and Motion for Reconsideration (of the Consolidated Decision dated 26 November 2021) of complainant-

<sup>16</sup> Id. at 27, Petition for *Certiorari*.

<sup>17</sup> Id. at 49, Joint Resolution.

<sup>18</sup> Id. at 60.

<sup>19</sup> Id. at 57.

<sup>20</sup> Id. at 57-59, Joint Resolution.

<sup>21</sup> Id. at 59.



movant are DENIED. The Joint Resolution and Consolidated Decision, both dated 26 November 2021, STAND.<sup>22</sup>

Thus, the DOF-RIPS filed this present Petition, claiming that the Ombudsman acted with grave abuse of discretion in dismissing the criminal charges against Patricio.

### *The Issue*

Did the Ombudsman act with grave abuse of discretion in dismissing the charges against Patricio?

### *The Ruling of the Court*

The Petition is partly meritorious.

At the outset, the Court clarifies that what is being assailed in this case is the Ombudsman's Resolution in OMB-C-C-19-0019 for violations of Section 7 of Republic Act (RA) No. 3019,<sup>23</sup> Section 8 of RA No. 6713<sup>24</sup> and Articles 171 and 183 of the Revised Penal Code (RPC).<sup>25</sup>

*The Ombudsman's determination of probable cause may be reviewed by the Court when grave abuse of discretion is present*

Under the Constitution and RA No. 6770 or The Ombudsman Act of 1989,<sup>26</sup> the Ombudsman has a wide latitude to act on criminal complaints against public officials and government employees. The Office of the Ombudsman is an independent body tasked to preserve the integrity of the public service. Thus, the Court does not generally interfere with the decision of the Ombudsman in finding probable cause, as part of its investigatory powers. Besides, the Ombudsman is in a better position to determine the evidence presented before her or him. Also, the Court is not a trier of facts.<sup>27</sup>

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<sup>22</sup> Id. at 72, Joint Order.

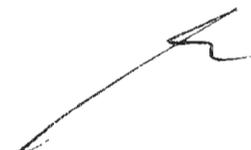
<sup>23</sup> Entitled "THE ANTI-GRAFT AND CORRUPT PRACTICES ACT," approved on August 17, 1960.

<sup>24</sup> Entitled "CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES," approved on February 20, 1989.

<sup>25</sup> Rollo pp. 11 and 34, Petition for *Certiorari*.

<sup>26</sup> Approved on November 17, 1989.

<sup>27</sup> *Reyes v. Office of the Ombudsman*, 810 Phil. 106, 114 (2017).



The determination of probable cause requires looking into the “existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which [she or] he was prosecuted.”<sup>28</sup>

The Court, however, is not precluded from reviewing the Ombudsman’s action whenever grave abuse of discretion is present.<sup>29</sup> Grave abuse of discretion implies a capricious and whimsical exercise of judgment amounting to lack or excess of jurisdiction.<sup>30</sup> It must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty mandated by law.<sup>31</sup> Hence, the Court may interfere with the Ombudsman’s investigatory powers:

- (a) To afford protection to the constitutional rights of the accused;
- (b) When necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions;
- (c) When there is a prejudicial question which is *sub judice*;
- (d) When the acts of the officer are without or in excess of authority;
- (e) Where the prosecution is under an invalid law, ordinance or regulation;
- (f) When double jeopardy is clearly apparent;
- (g) Where the court has no jurisdiction over the offense;
- (h) Where it is a case of persecution rather than prosecution;
- (i) Where the charges are manifestly false and motivated by the lust for vengeance.<sup>32</sup>

Specific to the finding of probable cause, there can be grave abuse of discretion when there is a showing that the preliminary investigation was conducted in a way that amounted to a virtual refusal to perform a duty mandated by law.<sup>33</sup>

Here, the DOF-RIPS claims that the Ombudsman gravely abused its discretion when it dismissed the complaint filed by its duly authorized representatives as the Ombudsman exceeded its authority in exercising its investigatory powers, and evaded its duty when it dismissed the complaint. The DOF-RIPS claims that based on records, the elements of the crimes charged in OMB-C-C-19-0019, *i.e.*, violation of Section 7 of RA No. 3019,

<sup>28</sup> *Pilapil v. Sandiganbayan*, 293 Phil. 368, 381 (1993).

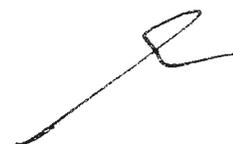
<sup>29</sup> *Soriano v. Deputy Ombudsman Fernandez*, 767 Phil. 226, 240 (2015).

<sup>30</sup> *Villarosa v. Ombudsman*, 846 Phil. 64, 73 (2019).

<sup>31</sup> *Dichaves v. Office of the Ombudsman*, 802 Phil. 564, 589, 591 (2016).

<sup>32</sup> *Vergara v. Ombudsman*, 600 Phil 26, 42 (2009).

<sup>33</sup> *Villarosa v. Ombudsman*, *supra*.



Section 8 of RA No. 6713,<sup>34</sup> Article 171(4) of the RPC,<sup>35</sup> and Article 183 of the RPC, exist.<sup>36</sup> The DOF-RIPS claims that the existence of probable cause is undeniable, and that the truth of the facts in its complaint are supported by public documents.<sup>37</sup> On the other hand, the claim of good faith and other defenses raised by Patricio should not have been weighed, resulting in the dismissal of the case at the preliminary investigation level.<sup>38</sup>

A reading of the Ombudsman's 14-page Joint Resolution reveals that the Ombudsman hardly touched upon Patricio's violation of the criminal charges, and merely discussed and tried to justify that his assets are not manifestly out of proportion to his income. The Ombudsman blandly stated that there was no willful intent on the part of Patricio to conceal their properties.

Specifically, and among others, the Ombudsman did not pass upon the allegations as regards the non-declaration of six properties, the titles of which were in the name of either Patricio or the Spouses Patricio, and merely accepted the excuse that majority of their properties were titled in Patricio's name by his allegedly deceased father without his knowledge and consent.

As regards Patricio's alleged non-declaration of cash, the Ombudsman did not consider insubstantial Patricio's explanation that he had no cash on hand or in their bank to declare for the years 2009 to 2016, since he always re-invests his money in his buy-and-sell business. Aside from the business, he claims that his duty to provide for his family placed him in a "tight financial" situation.<sup>39</sup>

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<sup>34</sup> 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.

<sup>35</sup> REVISED PENAL CODE, art. 171. Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister. — The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

4. Making untruthful statements in a narration of facts.

<sup>36</sup> *Rollo*, p. 14, Petition for *Certiorari*.

<sup>37</sup> *Id.* at 32, Petition for *Certiorari*.

<sup>38</sup> *Id.* at 23-34, Petition for *Certiorari*.

<sup>39</sup> *Id.* at 308-309, Counter-affidavit.



All the defenses are factual in nature and at that point, were bare allegations. As opposed to the DOF-RIPS' documentary evidence, therefore, it was grave abuse of discretion for the Ombudsman to anchor its findings on bare denials. The paucity of Patricio's explanations cannot be ignored.

*First*, it is beyond human experience for a father, who is gainfully employed and who provides for the family, to be left with no cash on hand or in his bank. *Second*, generally speaking, banks require their clients to have a certain amount in their accounts as a maintaining balance. Thus, it is highly unlikely that Patricio had zero balance in any of his bank account/s. *Third*, the DOF-RIPS obtained records from the Bureau of Immigration which shows that Patricio traveled abroad several times from 1993 to 2017.<sup>40</sup> A person with a "tight financial" situation would unlikely afford to travel abroad several times.

To stress, the finding of probable cause is based on facts and circumstances in which a person of ordinary caution and prudence would be likely to entertain an honest and strong suspicion that the person charged is probably guilty of the crime subject of the investigation.<sup>41</sup>

While being based merely on opinion and reasonable belief, the finding of probable cause does not import absolute certainty. Otherwise stated, it is not necessary for it to be based on clear and convincing evidence of guilt, as the investigating officer acts upon reasonable belief.<sup>42</sup> Corollarily, the presence or absence of the elements of the crime is evidentiary in nature, and a matter of defense that may be passed upon only after a full-blown trial on the merits. Thus, determining the validity of a party's defense or accusation, and whether the pieces of evidence presented are admissible, are outside the scope of the process of determining probable cause. They are for the trial court to completely determine through a full-blown trial on the merits.<sup>43</sup>

These notwithstanding, the Court shall proceed to discuss the propriety of the criminal charges imputed against Patricio.

*Sections 8, 11, and 16 of RA No. 6713,  
and their relation to Section 7 of RA  
No. 3019 and 183 of the RPC*

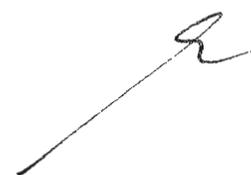
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<sup>40</sup> Id. at 145, Joint Complaint Affidavit.

<sup>41</sup> *Villarosa v. Ombudsman*, supra note 30, at 74.

<sup>42</sup> Id.

<sup>43</sup> *Spouses Miraflores v. Office of the Ombudsman*, G.R. Nos. 238103 & 238223, January 6, 2020, 928 SCRA 45, 63.



### I. RA No. 6713, and its relation to Section 7 of RA No. 3019<sup>44</sup>

Section 8 of RA No. 6713 requires all public officials and employees to file their SALNs, including those of their spouses, and unmarried children under 18 years of age living in their households, after assumption of office, every year thereafter, and after separation from the service. Any public official or employee who violates Section 8, among others, shall be punished according to Section 11 of RA No. 6713:

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

It bears to stress that the above provision gives primacy to any law which provides for a heavier penalty. The Court in *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman*<sup>45</sup> (**DOF-RIPS v. Ombudsman**) explained that since RA No. 6713 imposes a graver penalty than Section 7 of RA No. 3019, the accused must be charged under RA No. 6713, and not under RA No. 3019, in view of the repealing clause in Section 16 of RA No. 6713.<sup>46</sup> The Court in *DOF-RIPS v. Ombudsman*<sup>47</sup> ruled:

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

<sup>44</sup> Republic Act No. 3019, sec. 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 first statements in the following months of January.

<sup>45</sup> G.R. No. 236956, November 24, 2021.

<sup>46</sup> Republic Act No. 6713, sec. 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.

<sup>47</sup> *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman*, supra.



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 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.<sup>48</sup> (Underscoring supplied)

Based on the foregoing, Patricio can only be indicted for violation of Section 8 of RA No. 6713, and not Section 7 of RA No. 3019.

## II. RA No. 6713, and its relation to Article 183 of the RPC

DOF-RIPS also charged Patricio with Article 183 of the RPC for his non-disclosure of certain properties in his SALN. DOF-RIPS claims that this omission amounted to a deliberate falsehood of a sworn document.<sup>49</sup>

Grounded on the same premises above, Article 183 of the RPC<sup>50</sup> must

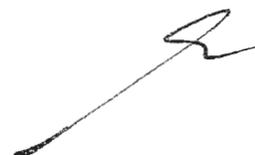
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<sup>48</sup> Id.

<sup>49</sup> *Rollo*, p. 25, Petition for *Certiorari*.

<sup>50</sup> REVISED PENAL CODE, art. 183. False Testimony in Other Cases and Perjury in Solemn Affirmation. — The penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

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



be read with Section 11 of RA No. 6713,<sup>51</sup> which, again, states that “if the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute.” Thus, in *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman*,<sup>52</sup> the Court explained that the penalty under Section 8 of RA No. 6713, being greater than the penalty in Article 183 of the RPC, the accused must be prosecuted under Section 8 of RA No. 6713, and not under Article 183 of the RPC.

Article 183 of the RPC provides for a penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum, or four (4) months and one (1) day to two (2) years and four (4) months. To recall, Section 11 of RA No. 6713 provides for a graver penalty of imprisonment not exceeding 5 years, or a fine not exceeding PHP 5,000.00, or both, and, in the discretion of the court of competent jurisdiction, and disqualification to hold public office.

Hence, neither can Patricio be simultaneously charged with Article 183 of the RPC.

*Patricio did not violate Article 171(4) of the RPC*

Article 171(4), or Falsification of Public Documents, under the RPC, has the following elements: (1) the offender is a public officer, employee, or notary public; (2) he takes advantage of his official position; and (3) he falsifies a document by committing any of the acts enumerated in Article 171 of the RPC.<sup>53</sup>

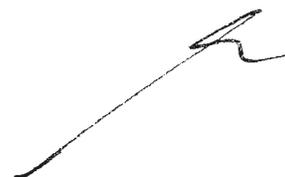
In the present case, the second element is absent. Taking advantage of a public officer’s position, for the purpose of committing Falsification of Public Documents under Article 171, exists when the offender falsifies a document in connection with the duties of his office. This crime requires either making or preparing, or otherwise intervening in the preparation of a document. This does not apply to the circumstances in the present case. The preparation and filing of a SALN is not a special duty of any particular

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<sup>51</sup> Republic Act No. 6713, sec. 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.

<sup>52</sup> G.R. No. 240137, September 9, 2020.

<sup>53</sup> *Office of the Ombudsman v. Santidad*, G.R. No. 207154-222046, December 5, 2019, 927 SCRA 122, 149.



office.<sup>54</sup>

Hence, the remaining valid criminal charge against Patricio is the violation of Section 8 of RA No. 6713 for his failure to disclose the properties in his SALNs for the years 2010 to 2016. The Court notes the Joint Complaint-Affidavit was filed on December 4, 2018, and that some of the violations of Section 8 of RA No. 6713 pertained to the years 1995 to 2009. “The prescriptive period for violations of Section 8 of RA No. 6713 is eight (8) years.”<sup>55</sup> Thus, for having been filed beyond the eight-year prescriptive period, the SALNs pertaining to the years 1995 to 2009 that violated Section 8 of RA No. 6713 has prescribed.

A final note. In the recent case of *Carlos v. Office of the Ombudsman*<sup>56</sup> (**Carlos**) the Court *En Banc* discussed the absolutely mandatory nature of the review and compliance procedure, under Section 10 of RA No. 6713, for (1) failure to submit the SALN on time; (2) incomplete SALN; and (3) formally defective SALN.<sup>57</sup> Thus, the Ombudsman should likewise determine the applicability or propriety of Section 10 in the present case. As held in *Carlos*, without abiding by the review and compliance procedure, liability cannot attach.

All told, the Court finds that the Ombudsman gravely abused its discretion when it dismissed the criminal charge in OMB-C-C-19-0019 only in so far as the violation of Section 8 of RA No. 6713 for want of probable cause, when Patricio failed to disclose the properties in his SALN for the years

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<sup>54</sup> *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman*, G.R. No. 238660, February 3, 2021.

<sup>55</sup> *Department of Finance-Revenue Integrity Protection Service v. Office of the Ombudsman*, G.R. No. 236956, November 24, 2021.

<sup>56</sup> G.R. No. 225774, April 18, 2023.

<sup>57</sup> Republic Act No. 6713, sec. 10. Review and Compliance Procedure. — (a) The designated Committees of both Houses of the Congress shall establish procedures for the review of statements to determine whether said statements which have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.



2010 to 2016.

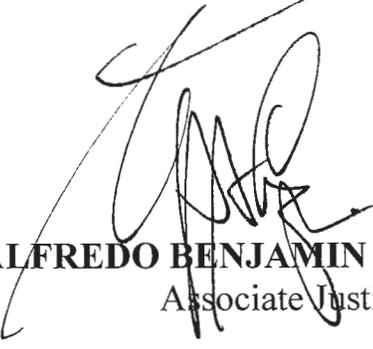
**WHEREFORE**, the Petition for *Certiorari* filed by petitioner Department of Finance – Revenue Integrity Protection Service is **PARTLY GRANTED**. The Joint Resolution, dated November 26, 2021, of the Office of the Ombudsman in OMB-C-C-19-0019 is **REVERSED** only in so far as it dismissed the criminal charge against respondent Christopher L. Patricio for Violation of Section 8 of Republic Act No. 6713, in so far as his Statements of Assets, Liabilities and Net Worth for the years 2010 to 2016 are concerned. The case is **REMANDED** to the Office of the Ombudsman for further proceedings on the criminal charge for the said violation of Section 8 of Republic Act No. 6713 in so far as Christopher L. Patricio’s Statements of Assets, Liabilities and Net Worth for the years 2010 to 2016 are concerned.

**SO ORDERED.**

  
**MARIA FILOMENA D. SINGH**

Associate Justice

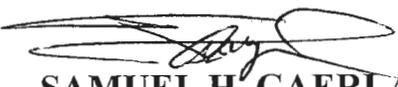
WE CONCUR:

  
**ALFREDO BENJAMIN S. CAGUIOA**

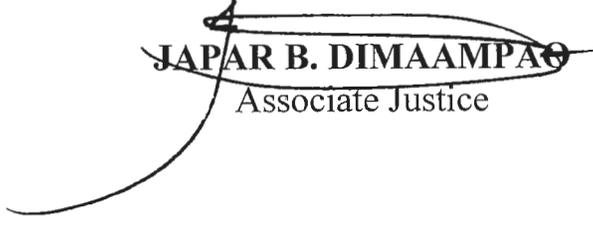
Associate Justice

  
**HENRI JEAN PAUL B. INTING**

Associate Justice

  
**SAMUEL H. GAERLAN**

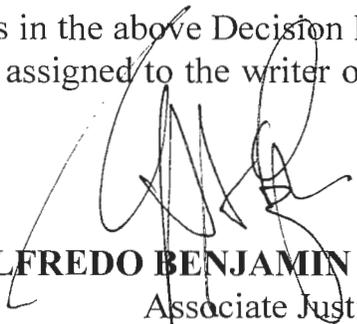
Associate Justice

  
**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.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

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



**MARVIC M.V.F. LEONEN**  
Acting Chief Justice  
Per Special Order No. 2977 dated June 1, 2023