



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DEPARTMENT OF FINANCE- G.R. No. 240137
REVENUE INTEGRITY
PROTECTION SERVICE.,
 Petitioner,

Present:

LEONEN, J.,
 Chairperson,
 GISMUNDO,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, JJ.

-versus-

OFFICE OF THE OMBUDSMAN AND MIRIAM R. CASAYURAN,
 Respondent. Promulgated:

September 9, 2020

Mis-OCBatt

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DECISION

CARANDANG, J.:

Before this Court is a Petition for *Certiorari*¹ assailing the Joint Resolution² dated September 30, 2016 and the Joint Order³ dated February 28, 2017 of respondent Office of the Ombudsman (Ombudsman) in OMB-C-C-13-0371 and OMB-C-F-13-0014. The Ombudsman dismissed the complaint⁴ filed by petitioner Department of Finance-Revenue Integrity Protection Service (DOF-RIPS) against respondent Miriam Y. Casayuran (Casayuran), under the following cases:

- A) In OMB-C-C-13-0371, for violation of Section 7 of Republic Act No. (R.A.) 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act”, and Section 8 of R.A. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees; and

¹ *Rollo*, pp. 3-49.

² Penned by Graft Investigation and Prosecution Officer III Francisco Alan L. Molina, with the approval of Overall Deputy Ombudsman Melchor Arthur H. Carandang; id. at 56-69.

³ Id. at 70-77.

⁴ Id. at 78-94.

Articles 171 and 183 of the Revised Penal Code (RPC) (Criminal Charges);⁵

- B) In OMB-C-A-13-0346, for violation of Executive Order (EO) No. 6 dated March 12, 1986 and the Reasonable Office Rules and Regulations, as well as Grave Misconduct and Serious Dishonesty (Administrative Charge);⁶ and
- C) In OMB-C-F-13-0014, Section 2 of R.A.1379 (Forfeiture Case).⁷

Antecedents

Casayuran was appointed as Clerk II in the Bureau of Customs (BOC) on February 13, 1990.⁸ On April 24, 1996, she purchased Condominium Unit No. 1615-D, located at the 16th floor of Central Park Condominium, Jorge St., Pasay City, with an area of 21 square meters for ₱506,100.00 (Pasay condominium). Its terms of payment are as follows: (1) ₱76,000.00 as downpayment; (2) on or before March 15, 1996, 24 monthly installments of ₱5,500.00; and (3) on or before March 15, 1998, 180 monthly installments of ₱5,457.00.⁹

On January 26, 1998, Casayuran was appointed as Customs Operations Officer III.¹⁰ In the same year, she purchased a house and lot located at Phase K-1, Lot No. 31, Stallion Homes 600, San Jose Del Monte, Bulacan, for ₱271,000.00 (Bulacan property). It was payable for 25 years, in 300 monthly installments of ₱3,938.40.¹¹

Sometime in 2003, Casayuran purchased a Toyota Revo (Revo) worth ₱675,000.00.¹² To pay for the Revo, she obtained a loan from the bank amounting to ₱420,000.00.¹³

In 2007, Casayuran purchased a Nissan Sentra (Sentra) worth ₱660,000.00, for which she made a down payment of ₱132,000.00.¹⁴ She also executed a Promissory Note with Chattel Mortgage¹⁵ in favor of Robinson's Savings Bank which mandated her to pay the remaining balance of ₱528,000.00 in 48 equal monthly installments of ₱15,728.00.¹⁶

Casayuran purchased a Nissan X-Trail (X-Trail) worth ₱1,473,544.00 on April 10, 2010. She paid a down payment of ₱217,000.00 and executed a Promissory Note with Chattel Mortgage in favor of Philippine Savings Bank to cover the balance of ₱1,256,544.00.¹⁷ The balance was to be paid in 48 monthly installments of ₱26,178.00.¹⁸

⁵ Id. at 87-91.

⁶ Id. at 91-92.

⁷ Id. at 87-88.

⁸ Id. at 145.

⁹ Id. at 146-150.

¹⁰ Id. at 145.

¹¹ Id. at 151-153.

¹² Id. at 59.

¹³ Id. at 136.

¹⁴ Id. at 157.

¹⁵ Id. at 155-156.

¹⁶ Id. at 155.

¹⁷ Id.

¹⁸ Id. at 159.

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On October 17, 2013, the DOF-RIPS, through Graft Prevention and Control Officers Josefel C. Gadin and Eduardo G. Josue, filed a Complaint-Affidavit¹⁹ initiating criminal, administrative, and forfeiture charges against Casayuran.²⁰ The DOF-RIPS alleged the following violations of Casayuran:

- 1) Criminal charges
 - a. Section 8 of R.A. 6713 in relation to Section 7 of R.A. 3019 – Casayuran did not file her Statement of Assets, Liabilities, and Net Worth (SALN) for the calendar years (CY) 1995, 1997, and 1998, as per the certification of the Human Resources Management Division of the BOC and the May 28, 2013 letter of the OMB's Public Assistance Bureau.²¹
 - b. Articles 171 and 183 of the RPC – Casayuran, as a government employee, was duty-bound to disclose the truth in her SALN. However, she did not disclose her Bulacan property in her SALN for CY 1998 onwards and the Sentra in her SALN for CYs 2007, 2010, and 2011.²²

2) Forfeiture charge under Section 2 of R.A. 1379 – Casayuran acquired wealth that was manifestly out of proportion to her lawful income,²³ as illustrated below:

Year	Monthly Salary as per SALN and/or Service Record (in PhP)	Properties Acquired with Total Amounts (in PhP)	Monthly Amortization based on Deeds of Sale/Mortgages (in PhP)	Monthly Amortization Payments based on loan reduction amounts in SALN (in PhP)
1990-1993	2,250.00	-	-	-
1994	3,072.00	-	-	-
1995	4,072.00	-	-	-
1996	5,095.00	Pasay Condominium (506,100.00) payable until 2013 Downpayment: 76,000.00	5,500.00	4,793.75
1997	5,895.00	-	5,500.00	4,793.75
1998	12,206.00	Bulacan property (271,000.00) until 2023	5,500.00 3,938.40 <hr/> 9,438.40	4,793.75 3,938.40 <hr/> 8,633.15
1999	13,200.00	-	5,457.00 3,938.40 <hr/> 9,395.40	0.00 3,938.40

¹⁹ Id. at 78-92.

²⁰ Id. at 57.

²¹ Id. at 83, 87-90.

²² Id. at 84-85, 90-91.

²³ Id. at 80-83, 87.

2000	13,400.00	-	5,457.00 3,938.40 <u>9,395.40</u>	4,166.67 3,938.40 <u>8,105.07</u>
2001	14,070.00	-	5,457.00 3,938.40 <u>9,395.40</u>	0.00 3,938.40
2002	14,070.00	-	5,457.00 3,938.40 <u>9,395.40</u>	4,166.67 3,938.40 <u>8,105.07</u>
2003	14,083.00	Revo (675,000.00) until 2006	5,457.00 3,938.40 12,916.67 <u>22,312.07</u>	0.00 3,938.40 12,916.67 <u>16,855.07</u>
2004	14,811.00	-	5,457.00 3,938.40 10,000.00 <u>19,395.00</u>	3,333.33 3,938.40 10,000.00 <u>17,271.73</u>
2005	14,100.00	-	5,457.00 0.00 16,833.33 <u>22,290.33</u>	3,750.00 0.00 16,833.33 <u>20,583.33</u>
2006	14,811.00	-	5,457.00 0.00 8,166.67 <u>13,632.67</u>	2,916.67 8,166.67 <u>11,083.34</u>
2007	15,577.92	Sentra (660,000.00) Downpayment: 132,000.00 Balance payable in 48 monthly installments of P15,728.00	5,457.00 15,728.00 <u>21,185.00</u>	-
2008	17,511.00	-	5,457.00 15,728.00 <u>21,185.00</u>	13,400.00
2009	19,546.50	-	5,457.00 15,728.00 <u>21,185.00</u>	19,933.33
2010	19,681.76	X-Trail (1,256,544.00) Downpayment: 217,000.00 Balance payable in 48 monthly installments of 26,178.00	5,457.00 15,728.00 26,178.00 <u>47,363.00</u>	21,666.67 4,712.00 <u>26,378.67</u>
2011	23,803.67	-	5,457.00 26,178.00 <u>31,635.00</u>	0.00 57,500.00
2012	25,767.00	-	5,457.00 26,178.00 <u>31,635.00</u>	17,500.00 ²⁴

²⁴ Id. at 34-37. Emphasis omitted.

- 3) Administrative Charge
 - a. Grave Misconduct and Serious Dishonesty – Casayuran acquired wealth disproportionate to her lawful income. She also failed to file her SALN for CYs 1995, 1997, and 1998 and to declare her Bulacan property and her Sentra.²⁵
 - b. Grave Misconduct, Serious Dishonesty, violation of EO No. 6 dated March 12, 1986 and violation of Reasonable Office Rules and Regulations – Casayuran failed to secure travel authority for her six (6) trips outside the country from 1996 to 2009.²⁶

Casayuran did not file a counter-affidavit.²⁷

Ruling of the Ombudsman

On September 30, 2016, the Ombudsman dismissed the complaint against Casayuran.²⁸ The Ombudsman found that neither probable cause nor substantial evidence exists against her.²⁹ The Ombudsman agreed that she failed to file her SALNs but held that the action had prescribed for being filed 8 years after Casayuran's violation of R.A. 6713.³⁰ Since the charge for R.A. 6713 was dismissed, the charge for violation of R.A. 3019 must likewise be dismissed.³¹

As for the properties she acquired that were manifestly out of proportion to her lawful income, the Ombudsman held as follows: (1) for the Bulacan property, the DOF-RIPS failed to prove that she actually owns it considering that the Deed of Conditional Sale was cancelled in 2005 due to her failure to settle the amortizations, and they also failed to present proof that she paid any of the monthly amortizations; (2) for the Pasay condominium, Casayuran had sufficient money to pay for it because her salary grew from ₱60,864.00 in January 1996 to ₱309,204.00 in June 2012. This amount does not even include her bonuses and allowances.³² In addition, Casayuran obtained loans to pay for the condominium unit;³³ (3) for the Revo, the DOF-RIPS failed to prove that Casayuran paid its monthly amortizations. What was established though was that she mortgaged it to the bank. And in 2003, she received ₱37,000.00 in allowances and bonuses which she could have used to augment her savings by ₱58,000.00;³⁴ (4) for the Sentra, Casayuran had ₱195,000.00 in cash as of December 31, 2006 which she could have used to pay for its downpayment. She also earned ₱226,970.00 in 2007 and had savings of ₱165,000.00. In 2008, she had ₱475,000.00 in cash, part of which could have been from the sale of the Revo, and her attrition reward of ₱288,040.00. Further, the DOF-RIPS failed to prove that Casayuran paid the

²⁵ Id. at 80-83, 85, 90-91.

²⁶ Id. at 85-87, 91.

²⁷ Id. at 61.

²⁸ Supra note 2.

²⁹ *Rollo*, p. 62.

³⁰ Id. at 65.

³¹ Id. at 66.

³² Id. at 62.

³³ Id. at 62-63.

³⁴ Id. at 63.

monthly amortizations for the Sentra;³⁵ (5) for the X-Trail, the DOF-RIPS likewise did not prove that Casayuran paid its monthly amortizations. She also had ₱550,000.00 in cash in 2009 and ₱950,000.00 in 2010. The DOF-RIPS failed to prove that she did not sell the Sentra and used its proceeds to purchase the X-Trail. In contrast, it was shown that Casayuran obtained loans.³⁶

With respect to Casayuran's failure to obtain a travel authority, the Ombudsman dismissed it because the DOF-RIPS filed its complaint more than a year from the occurrence of the act complained of.³⁷

The DOF-RIPS filed a Motion for Reconsideration³⁸ which the Ombudsman denied in its Joint Order³⁹ dated February 28, 2017. As such, they filed the instant petition before this Court to assail the ruling of the Ombudsman insofar as the criminal and forfeiture charges are concerned. The ruling of the Ombudsman with respect to the administrative charges against Casayuran is not included in their petition before this Court.

The Ombudsman filed a Manifestation⁴⁰ that it will no longer file a comment to the petition because it would be prudent for it to not participate in the case so as to not advocate for either the innocence or culpability of Casayuran. As for Casayuran, We imposed a fine of ₱1,000.00 upon her due to her failure to file her comment despite being required to do so, and consequently dispensed with her comment in Our March 11, 2019 Resolution.⁴¹

The DOF-RIPS argues in its petition that the prescriptive period for Casayuran's non-filing of her SALNs for CYs 1995, 1997, and 1998 should be counted from the time that it was discovered, which was either on January 18, 2013, the date when the BOC certified her non-filing, or on May 30, 2013, the date when Casayuran received a letter from the Ombudsman regarding her failure to file the SALNs. The State has no duty to monitor if all public officers have filed their SALN.⁴² Moreover, the dismissal of the action under R.A. 6713 does not necessarily result in the dismissal of the action under R.A. 3019 even though they penalize the same act.⁴³

The DOF-RIPS further argues that the Ombudsman failed to discuss its findings on the charge against Casayuran for violation of Articles 171 and 183 of the RPC.⁴⁴ In any case, Casayuran should be charged for violating the RPC because she did not disclose the Bulacan property in her SALNs.⁴⁵

The DOF-RIPS also argues that Casayuran should be charged under R.A. 1379. It has successfully shown that she acquired a considerable amount

³⁵ Id. at 63-64.
³⁶ Id. at 64-65.
³⁷ Id. at 67-68.
³⁸ Id. at 107-126.
³⁹ Supra note 3.
⁴⁰ *Rollo*, pp. 177-179.
⁴¹ Id. at 190.
⁴² Id. at 21-22.
⁴³ Id. at 23.
⁴⁴ Id. at 26-28.
⁴⁵ Id. at 32-33.



of money or property during her incumbency that is manifestly out of proportion with her salary and other lawful income. The Ombudsman should not have just taken a look at the increase in Casayuran's income but the increase in her spending as well. In addition, it should not have speculated on the purpose of the loans acquired by Casayuran and the reason for the non-declaration of her properties.⁴⁶

Issue

The issue before Us is whether the Ombudsman erred in dismissing the criminal and forfeiture charges against Casayuran.

Ruling of the Court

We partially grant the petition.

I. Violation of Section 7 of R.A. 3019 and Section 8 of R.A. 6713

The DOF-RIPS argued that Casayuran should be charged with violating Section 7 of R.A. 3019 and Section 8 of R.A. 6713 due to the nonfiling of her SALN for the years 1995, 1997, and 1998.

Section 8 of R.A. 6713 states:

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.

x x x x

Meanwhile, Section 7 of R.A. 3019 states:

Section 7. *Statement of Assets and Liabilities.* – Every public officer, within thirty days after assuming office and, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or Chief of an independent office, with the Office of the President, a true, detailed 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 statement on or before the fifteenth day of April following the close of the said calendar year.

⁴⁶

Id. at 34-45.

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*,⁴⁷ 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. 3326.⁴⁸ Based on Section 2⁴⁹ of the same law, the period shall begin to run either from the day of the commission of the violation of the law or, if the violation be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment. The second mode is an exception to the first and is known as the discovery rule or the blameless ignorance doctrine. In *Del Rosario*, We refused to apply the blameless ignorance doctrine in determining when prescription should run against the petitioner who failed to file her SALN. Section 8 of R.A.6713 itself makes the SALNs accessible to the public for copying or inspection at reasonable hours. The basis of the crime could thus be plainly discovered or were readily available to the public. That being the case, prescription shall run from the commission of the offense, which in this case was the non-filing of the SALN.⁵⁰ The DOF-RIPS filed their complaint on October 17, 2013, or more than a decade after Casayuran failed to file her 1995, 1997, and 1998 SALN. Consequently, the Ombudsman was correct in ruling that the action for such violation has prescribed.

II. Paragraph 4 of Article 171 and false testimony in other cases and perjury in solemn affirmation under Article 183 of the RPC.

Articles 171 and 183 of the RPC provide:

Article 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; x x x

Article 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

⁴⁷ G.R. No. 199930, June 27, 2018.

⁴⁸ Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offences punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) after eight years for those punished by imprisonment for two years or more, but less than six years; and (d) after twelve years for any other offence punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years. Violations penalized by municipal ordinances shall prescribe after two months.

⁴⁹ Section 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

⁵⁰ Supra note 47.

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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.

Article 171, in general, requires the presence of the following elements: (a) the offender is a public officer, employee, or notary public; (b) he or she takes advantage of his or her official position; and (c) he or she falsifies a document by committing any of the acts enumerated in Article 171.⁵¹ Paragraph 4 of Article 171, in particular, has the following elements: (a) the offender makes in a public document untruthful statements in a narration of facts; (b) he or she has legal obligation to disclose the truth of the facts narrated by him or her; and c) the facts narrated by him or her are absolutely false.⁵² The penalty for violation of paragraph 4 Article 171 is *prisión mayor* and a fine not to exceed ₱5,000.00.

Article 183 of the RPC, which imposes the penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum, require the existence of the following elements: (a) That the accused made a statement under oath or executed an affidavit upon a material matter; (b) That the statement or affidavit was made before a competent officer, authorized to receive and administer oath; (c) That in the statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and (d) That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.⁵³ There must be a willful assertion of a falsehood in the statement under oath or in an affidavit, which in this case is the SALN.⁵⁴

Probable cause is 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 he or she was prosecuted. It requires more than bare suspicion and can never be left to presupposition, conjecture, or even convincing logic.⁵⁵ It is well settled that the determination of the existence of probable cause is a finding of fact which is generally not reviewable by this Court. The Court shall only interfere when there is a clear showing of grave abuse of discretion.⁵⁶

In this case, while the Ombudsman did not expressly state that there is no probable cause to charge Casayuran with violation of Articles 171 and 183

⁵¹ *Garcia-Diaz v. Sandiganbayan*, G.R. Nos. 193236 & 193248-49, September 17, 2018.

⁵² *Galeos v. People*, 657 Phil. 500, 520 (2011).

⁵³ *Union Bank of the Philippines. v. People*, 683 Phil. 108, 117 (2012).

⁵⁴ *Office of the Ombudsman v. Capulong*, 729 Phil. 553, 565 (2014).

⁵⁵ *Joson v. Office of the Ombudsman*, 784 Phil. 172, 185 (2016)

⁵⁶ *Id.*

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of the RPC, it did find that the DOF-RIPs failed to prove that Casayuran owns the Bulacan property since its Deed of Conditional Sale was cancelled in 2005.⁵⁷

The Ombudsman further held that Casayuran did not have to declare the Sentra in her SALN for CY 2007. Civil Service Commission (CSC) Resolution No. 1300173, which required the disclosure of personal properties subject of a mortgage, was promulgated only on January 24, 2013. Prior to that, no rule or regulation governed the declaration of movable property bought through financing.⁵⁸ Further, there is no proof that Casayuran retained ownership of the Sentra in 2010 and 2011. The Motor Vehicle Inquiry Detail submitted by the DOF-RIPS was not issued by the Land Transportation Office or properly authenticated by the persons who issued it.⁵⁹

The filing of a SALN under oath is required by the Constitution⁶⁰ itself, as well as R.A. Nos. 3019 and 6713. It must be sworn and its contents must be true and detailed.⁶¹ Casayuran never declared the Bulacan property in any of her SALNs.⁶² However, the DOF-RIPS did not submit proof that she acquired ownership of the Bulacan property. Under the Deed of Conditional Sale,⁶³ a Deed of Absolute Sale shall only be executed in favor of Casayuran if she has fully paid the purchase price together with the interest, taxes, and other charges due.⁶⁴ The Deed of Conditional Sale was subsequently cancelled because Casayuran was unable to pay her obligation for the Bulacan property.⁶⁵ As such, it appears that the title to the Bulacan property was never transferred to Casayuran. Hence, she was not obligated to declare the Bulacan property in her SALN.

As for the Sentra, Casayuran did not refute the authenticity of the Vehicle Sales Invoice⁶⁶ showing that she purchased it in September 2007. It is true that CSC Resolution No. 1300173, which requires the declaration of personal properties subject of a mortgage in the SALN, was only enacted on January 24, 2013. Nonetheless, the Certificate of Registration⁶⁷ dated December 10, 2007 submitted by the DOF-RIPS clearly indicates Casayuran as the owner of the Sentra even though it is encumbered to Robinsons Savings Bank.⁶⁸ Casayuran only declared the Sentra in her SALNs for 2008 and 2009. Though she no longer declared the Sentra in her SALN for 2010 to 2012, she neither argued nor presented proof that she no longer owned the Sentra beginning 2010. That being the case, Casayuran should have declared the

⁵⁷ *Rollo*, p. 66.

⁵⁸ *Id.* at 66-67.

⁵⁹ *Id.* at 67.

⁶⁰ Article XI, Section 17. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or ag rank, the declaration shall be disclosed to the public in the manner provided by law.

⁶¹ *Pleyto v. PNP- Criminal Investigation & Detection Group*, 563 Phil. 842 (2007).

⁶² *Rollo*, pp. 131-144.

⁶³ *Id.* at 151-153.

⁶⁴ *Id.* at 152.

⁶⁵ *Records*, p. 64.

⁶⁶ *Rollo*, p. 157.

⁶⁷ *Id.* at 158.

⁶⁸ *Id.*



Sentra in her SALN for 2007, 2010, 2011, and 2012, which are the SALNs covered by the complaint filed on October 17, 2013.

Even so, Casayuran cannot be held liable under paragraph 4 of Article 171 of the RPC. While there is no question that Casayuran is a public officer, her failure to declare the Sentra in her SALNs for 2007, 2010, 2011, and 2012 is not tantamount to taking advantage of her position as Customs Operations Officer III. A public officer is said to have taken advantage of his or her position if he or she has the duty to make or prepare or otherwise to intervene in the preparation of a document or if he or she has the official custody of the document which he or she falsifies.⁶⁹ In *People v. Sandiganbayan*,⁷⁰ We held that failure to show the involvement of one of the accused, Mayor Quintin B. Saludaga, in the issuance of the official receipt subject of the complaint means that there was also failure to establish that he took advantage of his position. Accordingly, he cannot be held liable for falsification of public documents.⁷¹

Except for those who serve in an honorary capacity, laborers and casual or temporary workers,⁷² every public officer or employee is required to file their SALN pursuant to the Constitution, RA Nos. 3019 and 6713. Thus, Casayuran's position is irrelevant with respect to the requirement of filing a SALN because she must file it so long as she is a public officer or employee. Her position as a Customs Operations Officer III does not give her any specific power or function when it comes to her SALN. She is similarly situated with every other public officer or employee. Hence, it cannot be said that Casayuran took advantage of her position when she failed to declare the Sentra in her SALNs for 2007, 2010, 2011, and 2012. Due to the absence of the element of taking advantage of one's position, there can be no finding of probable cause against Casayuran for violation of Article 171.

Likewise, Casayuran cannot be held liable under Article 183 of the RPC. The disclosure of a public officer or employee's properties is required under Sec. 8 of R.A. 6713. Failure to comply with this provision is punishable by imprisonment of five (5) years or a fine not exceeding ₱5,000.00 or both, at the discretion of the court, under Sec. 11 of R.A. 6713. The same provision provides that "if the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute." Casayuran may also be held liable for her failure to disclose all her properties in her SALNs for 2007, 2010, 2011, and 2012 under Article 183 of the RPC. Casayuran certified in her SALNs for 2007, 2010, 2011, and 2012 that her properties are limited to those stated in her SALNs even though she also owns the Sentra. Her SALNs were required by law and were subscribed and sworn to before a person administering the oath. Article 183 imposes a penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum, or four (4) months and one (1) day to two (2) years and four (4) months. This is clearly less than the penalty imposed under R.A. 6713. Pursuant to Section 11 of R.A. 6713, Casayuran cannot be prosecuted under Article 183.

⁶⁹ Supra note 52.

⁷⁰ 765 Phil. 845 (2015).

⁷¹ Id.

⁷² Republic Act No. 6713, Section 8(a).

III. Section 2 of R.A. 1379

Section 2 of R.A. 1379 states:

Section 2. *Filing of petition.* – Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired. The Solicitor General, upon complaint by any taxpayer to the city or provincial fiscal who shall conduct a previous inquiry similar to preliminary investigations in criminal cases and shall certify to the Solicitor General that there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof, shall file, in the name and on behalf of the Republic of the Philippines, in the Court of First Instance of the city or province where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided*, That no such petition shall be filed within one year before any general election or within three months before any special election.

x x x x

In order for the presumption in Section 2 to apply, the following must be shown: (1) the offender is a public officer or employee; (2) he or she must have acquired a considerable amount of money or property during his incumbency; and (3) said amount is manifestly out of proportion to his or her salary as such public officer or employee and to his or her other lawful income and the income from legitimately acquired property.⁷³ If the foregoing are proven, the properties unlawfully acquired shall be forfeited in favor of the state.⁷⁴

There is no question that the first requirement exists. What is in contention is if Casayuran obtained a considerable amount of money or property during her incumbency and if it is manifestly out of proportion with her salary.

To establish the lawful income of Casayuran, we refer to Section 3 of R.A. 1379 which requires that the approximate amount of property the official has acquired during his or her incumbency in his or her past and present offices and employments, and the total amount of his or her government salary and other proper earnings and incomes from legitimately acquired property, must be stated in a petition filed under such law. The DOF-RIPS submitted

⁷³ *Office of the Ombudsman v. Peliño*, 575 Phil. 221, 241-242 (2008).

⁷⁴ Section 6. *Judgment.* – If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election. The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

Casayuran's Personal Data Sheet, Service Record in the BOC, her Certificates of Compensation for CYs 2003, 2007, 2008, and 2010, and her SALNs for 1996, 1999-2012. It did not present her SALN for CYs 1990 to 1994 despite the fact that the certifications from the BOC and the Ombudsman state that only the SALNs for CYs 1995, 1997, and 1998 were unavailable.

The Ombudsman justified Casayuran's ability to purchase the Pasay condominium on the following grounds: (1) based on her Service Record, her salary grew from ₱60,864.00 in January 1996 to ₱309,204.00 in June 2012. In addition to these amounts, she also received allowances and bonuses; (2) based on her SALNs for 1998 and 1998, she obtained a ₱200,000.00 loan to pay for the condominium; (3) based on her SALN for 2000, she obtained a ₱100,000.00 loan from the Government Service Insurance System (GSIS) which she could have used to pay for the installment; and (4) based on her service record, she was receiving an annual salary of ₱173,400.00 from July 1, 2001 to January 25, 2004.⁷⁵

According to the Contract to Sell, the purchase price of the Pasay condominium was ₱506,100.00. Casayuran had to make a downpayment of ₱76,000.00 and pay the remaining amount in installments. Based on her SALN for 1996, Casayuran had cash amounting to ₱170,000.00,⁷⁶ which is enough for the downpayment of the Pasay condominium. However, as of December 31, 1996, her annual basic salary was only ₱61,140.00 or ₱5,095.00 per month.⁷⁷ Casayuran had to pay a monthly installment of ₱5,500.00 until March 15, 1996 and ₱5,457.00 onwards. Clearly, her basic salary is not enough to cover the monthly installment for the Pasay condominium. Casayuran failed to refute this by showing that her lawful income is sufficient to cover the monthly installment for the Pasay condominium and any other expenses she may have had.

In 2003, Casayuran purchased the Revo for ₱675,000.00, ₱420,000.00 of which was covered by a loan. Based on her SALN for 2002, Casayuran had cash amounting to ₱405,000.00.⁷⁸ This could cover the ₱255,000.00 remaining balance for the Revo. Nonetheless, it does not appear that Casayuran's lawful income was enough to pay her monthly installment for the Revo of ₱18,750.00. Casayuran received a total compensation of ₱206,274.00 in 2003 based on the Certificate of Compensation issued by the BOC.⁷⁹ Her basic salary was ₱169,176.00, which means she received a monthly salary of ₱14,098.00. Clearly, this is not enough to cover the monthly installment for the Revo. In addition to this, Casayuran's SALN for 2003 shows that she was still paying the monthly amortization for the Pasay condominium and had an existing loan with the GSIS. She also had an outstanding obligation of ₱28,000.00 for insurance.⁸⁰ The allowances and bonuses amounting to ₱37,098 that Casayuran received are not enough to cover these liabilities. Casayuran did not explain if she had other sources of lawful income or

⁷⁵ *Rollo*, pp. 62-63.

⁷⁶ *Id.* at 131.

⁷⁷ *Id.* at 145.

⁷⁸ *Id.* at 135.

⁷⁹ *Id.* at 154.

⁸⁰ *Id.* at 136.

disposed of any other property so that she can satisfy her outstanding obligations.

Casayuran purchased the Sentra in 2007 for ₱660,000.00. She made a downpayment of ₱132,000.00 and had to pay ₱15,728.00 per month for the remaining balance. Based on her SALN for 2006, she had cash amounting to ₱195,000.00.⁸¹ Thus, it can be said that she had enough money to pay for the downpayment. Casayuran received ₱188,214.00 as her basic salary, or ₱15,684.50 per month, and ₱38,756.00 as bonuses and allowances, for a total compensation of ₱226,970.00 in 2007.⁸² But she had the following liabilities based on her SALN for 2007: (1) GSIS loan of ₱60,000.00; (2) Citibank loan of ₱15,000.00; and (3) Personal loan of ₱260,000.00.⁸³ Casayuran's lawful income is manifestly inadequate to cover her outstanding obligations. She could have clarified why this is not the case but did not do so.

In 2010, Casayuran purchased the X-Trail for ₱1,473,544.00. She paid ₱270,000.00 for the downpayment and had to pay ₱41,906.00 as her monthly amortization. Her SALN for 2009 shows that she had ₱550,000.00 in cash⁸⁴ while the Certificate of Compensation for 2010 states that she received ₱256,863.00 as her basic salary, or ₱21,405.25 per month, and ₱71,549.00 as bonuses and allowances.⁸⁵ Casayuran's lawful income was barely enough to cover her expenses for the X-Trail. To make matters worse, she also had the following liabilities in 2010 based on her SALN for that year: (1) GSIS loan of ₱83,000.00; (2) Citibank loan of ₱40,000.00; (3) personal loan of ₱150,000.00; (4) Provident loan of ₱14,000.00; (5) ₱60,000.00 for her credit card; (6) ₱50,000.00 for St. Joseph Multipurpose Cooperative; and (7) ₱25,000.00 for Pag-Ibig Fund.⁸⁶ Casayuran should have explained how her lawful income was able to cover her outstanding obligations.

All told, Casayuran's lawful income does not appear to be sufficient to pay for the cost of the assets that she purchased. She neither refuted that she made these purchases nor showed that her lawful income was adequate. Consequently, We cannot agree with the Ombudsman that there is no reason to charge Casayuran for forfeiture under Section 2 of R.A. 1379. The amount of property that Casayuran acquired seems to be manifestly out of proportion with her lawful income.

In sum, the Ombudsman was correct in dismissing the criminal charges for violation of Section 8 of R.A. 6713, in relation to Section 7 of R.A. 3019 and Articles 171 and 183 of the RPC against Casayuran. However, the Ombudsman erred in refusing to file a petition for forfeiture under R.A. 1379 against her. Hence, the Ombudsman should file a petition for forfeiture under R.A. 6713 against Casayuran.

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⁸¹ Id. at 139.
⁸² Records, p. 43.
⁸³ *Rollo*, p. 140.
⁸⁴ Id. at 142.
⁸⁵ Records, p. 45.
⁸⁶ *Rollo*, p. 143.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The Joint Resolution dated September 30, 2016 and the Joint Order dated February 28, 2017 of the Office of the Ombudsman in OMB-C-C-13-0371 and OMB-C-F-13-0014 are **AFFIRMED** insofar as it dismissed the criminal charges against respondent Miriam R. Casayuran for violation of Section 8 of Republic Act No. 6713, in relation to Section 7 of Republic Act No. 3019 for nonfiling of her Statements of Assets, Liabilities and Net Worth for calendar years 1995, 1997, and 1999, and Articles 171 and 183 of the Revised Penal Code. It is **MODIFIED** with respect to the forfeiture charge under Section 2 of Republic Act 1379. The Office of the Ombudsman is **ORDERED** to file the necessary petition for forfeiture under Section 2 of Republic Act No. 1379 before the proper court.

SO ORDERED.

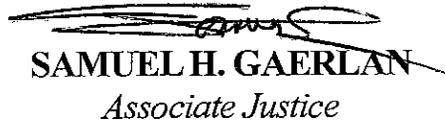

ROMAR D. CARANDANG
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


RODIL N. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice