



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
FIRST DIVISION

CERTIFIED TRUE COPY:

PEOPLE OF THE PHILIPPINES,
Plaintiff,

ESTELA TERESITA C. ROSETE
Executive Clerk of Court III
Sandiganbayan-First Division *03.31.19*

-versus-

SB-18-CRM-0104 TO 0109

For: Six (6) Counts of Violation of
Sec. 8(A), R.A. No. 6713

CARMELITA P. YADAO-SISON,
Accused.

DE LA CRUZ, J. *Chairperson*
ECONG, J. and
CALDONA, J.

PROMULGATED:

MAY 31 2019

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DECISION

Econg, J:

Accused **Carmelita P. Yadao-Sison** stands charged for six (6) counts of violation of Section 8(A) of R.A. No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

Except for the dates when the offenses were allegedly committed and the corresponding years covered by the Statement of Assets, Liabilities and Net Worth (SALN), the

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informations in Criminal Cases Nos. SB-18-CRM-0104, 0105, 0107 and 0108 are similarly worded as follows,¹ to wit:

The accusatory portion of the Information in SB-18-CRM-0104 reads:

"That on or about 30 April 2006, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused **CARMELITA PANUNCIALMAN YADAO-SISON**, a high-ranking public officer, being a Director III at the Commission on Higher Education, and as such had the obligation to accomplish, submit or file a complete and truthful declaration under oath, of all her assets, liabilities, net worth and financial or business interests, including those of her spouse, committing the crime in relation to office and in utter disregard of her official obligation, did then and there willfully, unlawfully and criminally fail to declare the business interest of her husband, Atty. Roberto M. Sison, in the law firm "Roberto M. Sison and Partners" in her sworn Statement of Assets, Liabilities and Net Worth with Disclosure of Business Interest and Financial Connections and Identification of Relatives in the Government Service (SALN) for the year 2005, as required of every public officer under the law, to the damage and prejudice of the public interest.

CONTRARY TO LAW,²

The Informations in Criminal Cases Nos. SB-18-CRM-0106 and 0109 are also similarly worded, varying only in the dates when the offenses were allegedly committed and the corresponding years covered by the SALN.³

The accusatory portion of the Information in SB-18-CRM-0106 reads:

"That on or about 30 April 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused **CARMELITA PANUNCIALMAN YADAO-SISON**, a high-ranking public officer, being a Director III at the Commission on Higher Education, and as such had the obligation to accomplish, submit or file a complete and truthful declaration under oath, of all her assets, liabilities, net worth and financial or business interests, including those of her spouse, committing the crime in relation to office and in utter disregard of her official obligation, did then and there willfully,

¹ Records, Vol. 1, pp. 1-18.

² Id. at 1.

³ Id. at 7-9 and 16-18.

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unlawfully and criminally fail to submit and/or to file, within the prescribed period, her Sworn Statement of Assets, Liabilities, and Net Worth with Disclosure of Business Interest and Financial Connections and Identification of Relatives in the Government Service (SALN) for the year 2007, and to declare the business interest of her husband, Atty. Roberto M. Sison, in the law firm "Roberto M. Sison and Partners" in the said SALN, as required of every public officer under the law, to the damage and prejudice of the public interest.

CONTRARY TO LAW.⁴

A Hold Departure Order was issued against accused on February 15, 2018,⁵ and subsequently, a Warrant of Arrest on the same date.⁶ She posted cash bail on February 22, 2018 for her provisional liberty.⁷

On March 15, 2018, accused filed a Motion to Quash⁸ the Informations against her. This was denied by the Court in its Resolution dated March 16, 2018.⁹

Upon being arraigned on August 10, 2018, accused pleaded "Not Guilty" to the charges against her.¹⁰

During Pre-trial,¹¹ the parties entered into the following stipulations:

STATEMENT OF ADMITTED FACTS

1. At the time material to the present cases, accused Carmelita P. Yadao-Sison was a Director of the Commission on Higher Education ("CHED"); and
2. At the time material to the present cases, accused Carmelita Yadao-Sison was a lawyer.

The prosecution admitted that accused Ms. Sison was occupying a position classified as Grade "27" or higher under the Compensation and Position Classification Act of 1989.¹²

⁴ Id. at 7.

⁵ Id. at 199.

⁶ Id. at 201.

⁷ Id. at 204.

⁸ Id. at 229-246.

⁹ Id. at 271-283.

¹⁰ Id. at 342.

¹¹ Id. at 433-442.

¹² Id. at 433.

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The issues proposed by the parties to be resolved are as follows:

As proposed by the prosecution:

Whether the accused is guilty of violating Section 8(A), in relation to Section 11 of R.A. No. 6713

As proposed by the accused Yadao-Sison:

1. Factual Issues

In SB-18-CRM-0104 to 0109:

- a) Whether the purported law firm "Roberto M. Sison and Partners" was ever organized, incorporated or registered under Philippine law;
- b) Whether the purported law firm "Roberto M. Sison and Partners" existed at all, actually operated as law partnership and derived any income as such; and
- c) Whether Mr. Sison had an existing business interest in the purported law firm "Roberto M. Sison and Partners" for the years 2005-2010

In SB-18-CRM-0106 and 0109

- a) Whether accused Ms. Sison received any memorandum/letter/compliance order/show-cause order or notice for non-submission of her SALNs for 2007 and 2010;
- b) Whether accused Ms. Sison submitted and/or filed her SALNs for 2007 and 2010 within the prescribed period; and
- c) Whether accused Ms. Sison substantially complied in good faith with regular internal procedure of the CHED for the submission for her SALNS for 2007 and 2010.

2. Legal Issues

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- a) Whether all elements of Violation of Section 8 (A) in relation to Section 11 of Republic Act No. 6713 are present in all six (6) cases; and
- b) Whether in all six (6) cases the final determination of the Office of the Ombudsman that accused Ms. Sison has no unexplained wealth, that her accumulated wealth is commensurate with her legitimate sources and properties, and that her declared net worth is not questionable, negates any criminal liability under Section 8(A) in relation to Section 11 of Republic Act No. 6713.¹³

The defense also stipulated on the due execution and authenticity of the following documentary exhibits: (1) SALN of the accused for year 2004,¹⁴ (2) SALN of the accused for year 2005,¹⁵ (3) SALN of the accused for year 2006,¹⁶ (4) SALN of the accused for year 2007,¹⁷ (5) SALN of the accused for year 2008,¹⁸ (6) SALN of the accused for year 2009¹⁹ and (7) SALN of the accused for year 2010.²⁰

On November 20, 2018, the prosecution started presenting its evidence.²¹

EVIDENCE FOR THE PROSECUTION

The prosecution presented five (5) witnesses who testified as follows:

1. **Apolonia R. Vivo** ("Vivo")²² is the Chief Administrative Officer of the Human Resource Management Division of the CHED. She claims, among others, that the CHED has no record on file of SALN of accused for the years 2005, 2006, 2007 and 2008. While she was able to find the 2010 SALN of the accused, the same was received by her office on June 25, 2014 which was beyond the reglementary period for filing.

¹³Id. at 433-434.

¹⁴ Exhibit G

¹⁵ Exhibit H

¹⁶ Exhibit I

¹⁷ Exhibit J

¹⁸ Exhibit K

¹⁹ Exhibit L

²⁰ Exhibit M

²¹ Id. at 443.

²² Id. at 368.

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Vivo also identified the following documentary exhibits: (a) Curriculum Vitae (CV) as of June 2010,²³ (b) 2004 SALN of accused Sison,²⁴ (c) 2009 SALN of accused Sison,²⁵ (d) unfiled 2010 SALN of accused Sison,²⁶ (e) CHED Memorandum from the Executive Director dated January 4, 2008,²⁷ (f) CHED Memorandum from the Executive Director dated March 5, 2008,²⁸ (g) CHED Memorandum from the Executive Director dated February 26, 2010,²⁹ (h) Certification dated May 22, 2018,³⁰ and (i) Certification dated June 8, 2018.³¹

On cross-examination,³² Vivo confirmed that she found nothing that will indicate that there was a memorandum for the years 2005, 2006, 2007 and 2009. Also, when asked about the possibility of losing other documents, she answered that it was possible that the office lost some documents, but not in the 201 file, in which the SALNs file is intact. Finally, when asked if the accused has ever been investigated for unexplained wealth, Vivo replied that she does not remember one.

2. **Maria Sisa T. Dela Cruz**³³ ("Dela Cruz") is the Director of the Human Resource Management of the Office of the Philippine State College of Aeronautics ('PHILSCA'). She testified, among others, that PHILSCA has a photocopy of accused Sison's 2008 SALN which indicated that she did not declare the business interest of her husband in the law firm "Roberto M. Sison and Partners." Dela Cruz further identified the following documentary exhibits: (a) 2008 SALN of accused Sison³⁴ and (b) Certification dated October 3, 2018.³⁵

3. **Julie Ann A. Garcia**³⁶ ("Garcia") is the Administrative Assistant VI in the Office of the Ombudsman, as well as the SALN In-Charge in the Central Records Division of the Office of the Ombudsman. Pursuant to the Subpoena coursed through the Chief of the Central Records Division of the Office of the Ombudsman, she conducted a search of the original/certified true copies of the SALN for the years 2007 and

²³ Exhibit D

²⁴ Exhibit G

²⁵ Exhibit L

²⁶ Exhibit M

²⁷ Exhibit O

²⁸ Exhibit P

²⁹ Exhibit Q

³⁰ Exhibit BB

³¹ Exhibit CC, page 1

³² TSN dated November 20, 2018

³³ Supra note 1 at 402.

³⁴ Exhibit K.

³⁵ Exhibit CC, page 2.

³⁶ Supra note 1 at 411.

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2010 of accused Sison. However, she did not find any file or record of the said SALNs. Garcia then drafted a Letter Response to the Subpoena stating her findings on the requested SALNs. Garcia also identified the Letter Response dated May 18, 2018.³⁷

4. **Leticia S. Reyes**³⁸ ("Reyes") is the Chief Administrative Officer of the National Defense College of the Philippines. She testified that after searching the records in their office, she found that accused Sison only submitted the photocopy of her SALN for the year 2005. She identified the said 2005 SALN of accused Sison.³⁹

5. **Ellenita G. Gatbunton**⁴⁰ ("Gatbunton") is the Presidential Officer VI of the Malacañang Records Office of the Office of the President. She stated that after personally checking the records in their office, she was able to see the official file of the Certification dated December 3, 2012 issued by then Director IV Marianito M. Dimaandal ("Director IV Dimaandal") and a copy of the filed SALN of accused Sison on 2009 which was received by their office on October 28, 2010. However, she did not see any filed SALNs of accused for the years 2005 to 2008 and 2010. She also testified that the Malacañang Records Office of the Office of the President transmitted the original Certification dated December 3, 2012 to the Office of the Ombudsman last December 4, 2012, together with the cover letter dated November 29, 2012 from then Director IV Dimaandal addressed to Atty. Joselito P. Fangon from the Office of the Ombudsman, as shown by a delivery receipt which indicates the date of receipt of the Office of the Ombudsman on December 4, 2012.

Gatbunton identified the following documentary exhibits: (a) Certification from the Office of the President dated December 3, 2012 signed by Marianito M. Dimaandal,⁴¹ and (b) Letter issued by the Office of the President dated November 29, 2012 signed by Marianito M. Dimaandal.⁴²

On December 3, 2018, counsel for accused manifested that after reading the Judicial Affidavits of Garcia, Reyes and Gatbunton, he has decided to stipulate on the testimonies of

³⁷ Exhibit AA.

³⁸ Supra note 1 at 417.

³⁹ Exhibit H.

⁴⁰ Id. at 454.

⁴¹ Exhibit V.

⁴² Exhibit W.

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the said witnesses as stated in the said Judicial Affidavits and that he does not intend to cross-examine the said witnesses.⁴³

On January 7, 2018, the Prosecution orally offered in evidence Exhibits D, G, H, I, J, K, L, M, O, P, Q, V, W, AA, BB and CC, pages 1 and 2.⁴⁴ The Court ruled to admit Exhibits G, W and AA, there being no objection to the said exhibits.⁴⁵ The Court also ruled to admit Exhibits D, H, I, J, K, L, M, O, P, Q, V, BB and CC, pages 1 and 2, as part of the witnesses who testified thereon.⁴⁶

EVIDENCE FOR THE DEFENSE

Accused then proceeded to present evidence in her defense.⁴⁷

Accused **Carmelita P. Yadao-Sison**⁴⁸ testified for herself through Judicial Affidavit, stating that she is a public officer with the rank of Chief (Salary Grade 24) and currently designated as Officer-in-Charge of the Office of the Executive Director IV of the Unified Student Financial Assistance System for Tertiary Education ("UniFAST") Secretariat, an attached agency to the CHED.

She alleges that no other case involving ill-gotten wealth, has been filed against her.⁴⁹

She denies failing to declare in her SALNs for the years 2005 to 2010 the supposed business interest of her husband in the purported law firm "Roberto M. Sison and Partners" because that law firm never existed and thus it would be illogical for her or her husband to have a business interest in a non-existent law firm. There was never any law firm that was registered or existed in that name, as proven by the Certification of Non-Registration of Company from the Securities and Exchange Commission ("SEC")⁵⁰ stating that the purported firm was never registered as a corporation or as a partnership and a Certification from the Bureau of Permits of the Local

⁴³ TSN dated December 3, 2018; Supra note 1 at 438.

⁴⁴ Supra note 1 at 478.

⁴⁵ TSN dated January 7, 2019.

⁴⁶ Supra note 37.

⁴⁷ TSN dated February 11, 2019.

⁴⁸ Supra note 1 at 487.

⁴⁹ Supra note 40 at p. 15.

⁵⁰ Exhibit 1

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Government of the City of Manila⁵¹ stating that the said firm was never issued a business permit.

She admits that the declaration in her CV as of June 2010⁵² that she is a law partner with limited practice in the purported law firm "Roberto M. Sison and Partners" is a mistake which she hopes that the court will consider with leniency and compassion. The addition of the said entry was out of sheer vanity, a way of appearing significant in her profession, even though it is not true.

She claims that the charges of failing to submit and/or file within the prescribed period for her SALNs for the years 2007 and 2010 in Criminal Case Nos. SB18CRM0106 and SB18CRM0109 are absurd, if not impossible, because she could not have failed to declare any alleged business interest of her husband if, in the first place, she supposedly did not submit her SALNs for the years 2007 and 2010.

Furthermore, she asserts that she simply followed the prescribed internal procedure of the CHED regarding the filing of SALNs, as explained by CHED Chairperson Ester Albano Garcia ("Chairperson Garcia") after she was appointed Director in the CHED in 2001. She was also directed to coordinate with Dr. Roger P. Perez ("Dr. Perez") who was her direct superior and the CHED Executive Director back then, with respect to the filing of her SALN for that year and all her subsequent SALNs.

As what she had always done during her other years working in the CHED, she personally fills out the SALN form and personally endorses the same to her direct superior. After the direct superior signs the accomplished SALN, he would transmit the same to the Human Resources Division (HR Division) of the CHED which is the one officially tasked to process and file the SALNs of all the employees in the CHED.

With respect to her SALNS for the years 2001 to 2004, she claims that she merely followed the usual procedure and that there was no issue with respect to the same. Accused denies receiving a reminder or notice informing her about the non-submission of any of her SALNs during her tenure with CHED.

As for her SALN for year 2005, she followed the same process as to filling out the form and signature, and then she

⁵¹ Exhibit 2

⁵² Exhibit D

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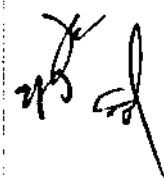
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personally endorsed the same to Brigadier General Fredelino Bautista ("BGen. Bautista"), who was then the Vice President for the Administration of the National Defense College of the Philippines (the "NDCP"), as well as her direct superior then, for his signature as she was on leave on a full-time basis from the CHED, and pursuing a Masteral degree program in National Security Administration from September 15, 2005 to August 31, 2006 at the NDCP.

As for her SALN for year 2006, she followed the same process as to filling out the form and signature, and then she personally endorsed the same to the National Security Council (NSC) Asst. Secretary Rodney Jagolino ("Asec. Jagolino"), who was her direct superior then, because she was on full-time Special Detail in the NSC from October 2006 to September 2007. The same was thereafter endorsed to Secretary Norberto B. Gonzales ("Secretary Gonzales") who signed the same in April 2007 and whose office processed and filed her SALN for the year 2006. She also received no warning, memorandum, letter or any other form of notice informing her of any irregularity with respect to the submission of her 2006 SALN.

After reporting back to the CHED on October 1, 2007, she followed the same procedure as for all her previous SALNs since 2001 when she first started working in CHED. For the SALN for the year 2007, she personally endorsed the same, through her office staff, to Romulo S. Neri ("Chairperson Neri") who was the CHED Chairperson and her superior at that time. She claims that she has not received any warning, memorandum, letter or any other form of notice informing her of any irregularity with respect to the submission of her 2007 SALN.

As for the SALN for the year 2010, she also followed the usual procedure for filling out the form and signature. She then had it notarized before Atty. Dolorsindo I. Paner ("Atty. Paner") on April 7, 2011, because Dr. Patricia B. Licuanan ("Dr. Licuanan"), who was then the CHED Chairperson and her direct superior, was unavailable to sign it at the time it was required to be processed and filed. She then personally endorsed the said SALN, through her office staff, to the HR Division of the CHED. Similar to her notarized SALN for the year 2004, no one from the CHED took issue with the notarization of her SALN for the year 2010. Also, she claims to have received no warning, memorandum, letter or any other form of notice informing her of any irregularity with respect to the submission of her 2010 SALN.



It was only on March 2013 that she found out about the alleged failure to file her SALNs when she discovered that criminal and administrative complaints were filed against her. Thereafter she proceeded to the CHED office in Diliman, Quezon City, where office records and files of the CHED were transferred to from its original office in Pasig City, to look for the SALNs for the years 2007 and 2010. To her shock and dismay, she found the original, signed SALN for the year 2007, which had the signature of then Chairperson Neri, in a folder where the old files of her former secretary Cecille Nugpo ("Nugpo") were located. She also found the original, signed SALN for 2010 in a box of folders held by her former secretary Edward Moreno ("Moreno") among several unprocessed file documents.

Upon the advice of Dr. Carmina Alonzo ("Dr. Alonzo"), then Acting Director of the Administrative and Finance Service of the CHED, she held on to the SALNs for 2007 and 2010 and eventually submitted them as attachments to the Verified Position Paper that she filed in response to the Administrative Complaint filed against her.

Accused identified the following documentary exhibits: (a) Certification from the SEC,⁵³ (b) Certification from the City Government of Manila,⁵⁴ (c) Sworn Affidavit of Dir. Roger P. Perez,⁵⁵ (d) Signed SALN for 2007,⁵⁶ and (e) Sign SALN for 2010.⁵⁷

On cross-examination,⁵⁸ Accused insisted that she followed the regular process based on the alleged internal procedure with the CHED, which is to fill out the SALN form, ensure that the contents in the SALN form are properly indicated or accomplished and endorse the same through her staff to give it to the direct superior for signature. The direct superior will be the one to transmit it to the HR Division so that the HR Division will be the one to process it. She failed, however, to ask for file copies of her 2007 and 2010 SALNs.

Accused confirmed, as well, that she indicated in her Counter-Affidavit filed before the Ombudsman that she was engaged in a limited practice with what was loosely termed as

⁵³ Exhibit 1

⁵⁴ Exhibit 2

⁵⁵ Exhibit 5

⁵⁶ Exhibit 11

⁵⁷ Exhibit 12

⁵⁸ TSN dated February 11, 2019.

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Roberto M. Sison and Partners, an unregistered, unofficial arrangement between her and Atty. Roberto M. Sison since 1995 and that she and Atty. Roberto M. Sison had an informal and loose form of unregistered partnership arrangement since she was allowed limited practice of profession.

Accused also confirmed that in her 2004 SALN, she indicated a yes in the business interest and financial connection with a law office located in 1951 Diamante corner Pasig Line, Sta. Ana, Manila, as a partner since 1995.

On re-direct, accused stated that there was no more such so-called loose partnership or arrangement as accused and Atty. Roberto M. Sison were already married in 2005.

She also stated that her civil status was still single during the time the 2004 SALN, in which she indicated yes as to the business interests and financial connections of her husband in the purported law firm.

Upon being asked by the Court who initiated the complaints against her, accused mentioned a certain Rosa Mercado, also known as Rosa Fernandez ("Fernandez"), who is a former CHED employee. She claims that Ms. Fernandez had been waging a battle against her due to her refusal to issue her clearance because of a pending case.

On February 4, 2019, the Court received a handwritten letter from Fernandez⁵⁹ requesting for certified true copies of all exhibits presented by the Office of the Ombudsman during the hearing in these cases, as well as the annexes to the Joint Resolution dated June 20, 2017. This was eventually denied in its Resolution dated February 20, 2019.

On February 11, 2019, counsel for the accused orally offered Exhibits 1, 2, 5, 11 and 12. The Court then ruled to admit Exhibits 1, 2, 11 and 12 as part of the testimony of the witness who testified thereon.⁶⁰

In compliance with the Order dated March 4, 2019,⁶¹ both parties filed their respective memoranda on March 19, 2019.

⁵⁹ Supra note 1 at 485.

⁶⁰ Records, Vol. 2, p 19.

⁶¹ Supra note 1 at 23.

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THE COURT'S FINDING OF FACTS

The testimonial and documentary evidence of the prosecution and the defense establish the following facts relevant to the charge of six (6) counts of violation of Section 8 of R.A. No. 6713.

Accused assumed the position of Director III of the CHED on May 7, 2001 after she was appointed by then President Gloria Macapagal-Arroyo. For her SALN for the year 2001, accused, following the prescribed internal procedure as explained to her by CHED Chairperson Garcia, accomplished the said SALN and filled out the entries therein. She signed the same and endorsed it through her office staff to Dr. Perez, her direct superior. Dr. Perez signed the accused's SALN for year 2001 and endorsed it, through his office staff, to the HR Division of the CHED. Upon its endorsement, the HR Division process and filed the SALN.

For her SALN for the year 2002, accused followed the prescribed internal procedure as she did the previous year. She personally accomplished the SALN and filled out the entries therein. After filling it out, she signed the SALN and endorsed it, through her office staff, to Dr. Perez who then signed and endorsed it to the HR Division of the CHED. Upon the endorsement by Dr. Perez, the HR Division of the CHED processed and filed the SALN for the year 2002.

For her SALN for the year 2003, accused followed the same procedure that she did for her SALNs for 2001 and 2002. She filled out the SALN form and accomplished the entries and then endorsed it, through her office staff, to Dr. Perez. Dr. Perez signed the accomplished SALN and endorsed it, through his office staff, to the HR Division of the CHED, which processed and filed it.

For her SALN for the year 2004, accused followed the usual procedure as those for her SALNs for 2001 to 2003. Since Dr. Perez was no longer connected with the CHED at that time, accused had her SALN for 2004 notarized. After having it notarized, she endorsed it, through the office staff, to the HR Division of the CHED. The latter then processed it and filed her SALN for the year 2004..

For her SALN for the year 2005, accused, although she was on leave on a full time basis from the CHED, followed the

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same process that she did for the previous SALNs. She personally filled out her SALN for 2005 and signed it when she was finished. Thereafter, she personally endorsed her SALN for 2005 to BGen. Bautista, her direct superior at the National Defense College of the Philippines, where she was on a study detail from September 15, 2005 to August 31, 2006. B. Gen. Bautista's office processed and filed her SALN for the year 2005 after it was signed by BGen. Bautista.

For her SALN for the year 2006, accused still followed the same procedure that she had been doing for all her previous SALNs. She filled out the entries in the SALN form and signed it. After signing the SALN form, she personally endorsed it to ASec. Jagolino, her direct superior at the NSC where she was on full-time Special Detail from October 2006 to September 2007. ASec. Jagolino then endorsed the SALN to Secretary Gonzales, who signed it, and whose office processed and filed the accused's SALN for the year 2006.

Accused reported back to the CHED on October 1, 2007. For her SALN for 2007, accused still followed the same procedure she did for the previous SALNs when she first started working in CHED. She filled out the SALN form and signed it. Thereafter, she endorsed the SALN through her office staff to her direct superior, Chairperson Neri who signed it.

For her SALN for the year 2010, accused followed the same procedure that she did during her tenure with the CHED. She filled out all entries in the SALN form and signed it. After she signed it, she had it notarized with Atty. Paner on April 7, 2011, as Dr. Licuanan, the direct superior then, was unavailable to sign it. Similar to her notarized SALN for 2004, no one from the CHED took issue with the notarization of her SALN for 2010. After accused notarized her SALN for 2010, accused personally endorsed it, through her office staff, to the HR Division of the CHED.

Accused never received any notice informing her of any irregularity with respect to the submission of any of her SALNs.

A perusal of the accused's SALNs submitted show that accused made a declaration in her SALN for the year 2004 of their business interest and financial connection in the law office situated at 1951 Diamante corner Pasig Line, Sta. Ana, Manila, as a partner since 1995. The SALNs for the years 2005 to 2010, on the other hand, reveal that starting 2005, which was the year

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accused and her husband Atty. Robert M. Sison got married, no indication of such business interest and financial connection was indicated. Nevertheless, accused indicated in her CV as of June 2010 that she is a "law partner (limited practice)" in "Roberto M. Sison and Partners" from "1995 up to the present," even if the same was admittedly not true and done allegedly out of sheer vanity. In fact, the records also bear that the purported firm was neither registered as a corporation or partnership nor issued a business permit by the Local Government of the City of Manila.

The Field Investigation Office (FIO) II - Office of the Ombudsman eventually conducted a fact-finding investigation on the reported non-filing of SALNs and non-disclosure of business interest of accused, which led to the filing of a complaint⁶² against the latter for Violation of Section 8(A), in relation to Section 11, of Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees" and Violation of Section 46(A)(1) Serious Dishonesty and Section 46(D)(8) Failure to File Sworn Statements of Assets, Liabilities and Net Worth, and Disclosure of Business Interest and Financial Connections, including those of their spouses under Rule X of the Civil Service Resolution No. 1101502, otherwise known as the "Revised Rules on Administrative Cases in the Civil Service" (RRACCS).

During its fact-finding investigation, the FIO issued a *subpoena ad testificandum* to the Administrative Aide VI of the Human Resource Management Division of the CHED. It also issued subpoena duces tecum to the Chief Administrative Officer of the Human Resource Management Division (HRMD) of the CHED, the Chief Personnel Specialist of the Integrated Records Management Office of the Civil Service Commission, SALN in-charge of the Central Records Division of the Office of the Ombudsman, the Director IV of the Malacañang Records Office of the Office of the President and the Assistant Director of the Corporate Filing & Records Division of the Securities and Exchange Commission (SEC).

In response to the subpoenas, Vivo, the Chief Administrative Officer of the Human Resource Management Division of the CHED, thru Certification dated May 22, 2018,⁶³ stated that the CHED has no record on file of accused's SALN for the years 2005, 2006, 2007 and 2008. As for accused's SALN

⁶² Supra note 1 at 43.

⁶³ Exhibit BB

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for the year 2010, it was later on revealed that while she was able to find SALN of the accused for the year 2010, the same was received by her office on June 25, 2014.

Upon checking the records of PHILSCA, De La Cruz, the Director of the Human Resource Management Office of the PHILSCA, discovered that PHILSCA has a photocopy of the 2008 SALN of the accused which indicated that she did not declare the business interest of her husband in the law firm "Roberto M. Sison and Partners." Hence she informed the Office of the Special Prosecutor of the Office of the Ombudsman about this finding through Certification dated October 3, 2018.⁶⁴

A search of the original/certified true copies of the SALN for the years 2007 and 2010 of accused by Garcia, the Administrative Assistant VI in the Office of the Ombudsman, as well as the SALN In-charge in the Central Records Division of the Office of the Ombudsman, showed that she did not find any file or record of the said SALNs. She then drafted a Letter Response⁶⁵ to the Subpoena stating her findings on the requested SALNs.

A search of the records also by Reyes, the Chief Administrative Officer of the National Defense College of the Philippines, showed that accused submitted only a photocopy of her SALN for the year 2005.⁶⁶ She thus photocopied the said SALN of accused and submitted it to the Office of the Special Prosecutor with stamp mark, 'certified photocopy on file.'

After personally checking the records in the Malacañang Records Office of the OP, Gatbunton, the Presidential Officer VI, found Certification dated December 3, 2012 issued by Director IV Dimaandal,⁶⁷ which certified that the SALN of accused for 2001 to 2008 and 2010 are not among the records in their files. A copy of the filed SALN of accused for the year 2009 was also received by their office on October 28, 2010. The Malacañang Records Office of the OP transmitted the original Certification dated December 3, 2012 to the Office of the Ombudsman on December 4, 2012, together with the cover letter dated November 29, 2012 from then Director IV Dimaandal addressed to Atty. Joselito Fangon of the Office of the Ombudsman.⁶⁸

⁶⁴ Exhibit CC

⁶⁵ Exhibit AA

⁶⁶ Exhibit H

⁶⁷ Exhibit V

⁶⁸ Exhibit W

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Meanwhile, upon learning that a complaint was filed against her with the Office of the Ombudsman, accused looked for her SALNs for 2007 and 2010 in the CHED Office in Diliman, Quezon City, going through the old files from her office, the Legal Office stock room, and in the existing records and files in the CHED. Accused found the SALNs for 2007 and 2010 among these files. Accused found the SALN for the year 2007 in a folder where the old files of her former Secretary Ms. Nugpo were located. She also found the notarized SALN for the year 2010 in a box of folders held by her former secretary Mr. Moreno, among several unprocessed file documents.

After she found her SALNs for the years 2007 and 2010, accused went to Dr. Alonzo, then Acting Director of the Administrative and Finance Service of the CHED. Given the pendency of the criminal and administrative complaints with the Office of the Ombudsman, Dr. Alonzo refused to accept the SALNs and advised the accused to hold on to the said documents. Accused submitted the original, signed SALNs for the years 2007 and 2010 as attachments to the Verified Position Paper that she filed with the Office of the Ombudsman in response to the administrative complaint filed against her.

The Ombudsman eventually issued a Joint Resolution dated June 20, 2017⁶⁹ finding probable cause to indict the accused for violation of Section 8(A) of R.A. No. 6713, it appearing that accused failed to timely file her SALNs for the years 2007 and 2010 and pay attention to the details of her SALNs for the years 2005 to 2010, which resulted in the inaccuracy of certain information therein. Further, accused was held administratively liable for simple negligence and was meted the penalty of suspension from the service without pay for three (3) months. The Ombudsman took note of the fact that there was no allegation or showing that accused has unexplained wealth or that her accumulated wealth is not commensurate with her sources of income.

The present informations involve the alleged six (6) counts of violation of Section 8(A) of R.A. No. 6713, more particularly, in SB-18-CRM-0104 to 0109, the failure to declare the business interest of accused's husband Atty. Roberto M. Sison in the law firm "Roberto M. Sison and Partners" and in SB18CRM0106 and 0109, the failure to submit and/or file within the prescribed period SALNs for the years 2007 and 2010.

⁶⁹ Id. at 36.

ISSUE

The core issue for the Court's resolution is whether or not the accused is criminally liable for violation of Section 8(A), in relation to Section 11, of Republic Act No. 6713.

RULING

The submission of a sworn SALN is mandated by Section 8, R.A. 6713, the full text of which reads as follows:

Section 8. Statements and Disclosure. - Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statements of Assets and Liabilities and Financial Disclosure. - All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;
- (d) liabilities, and;
- (e) all business interests and financial connections.

The documents must be filed:

- (a) within thirty (30) days after assumption of office;
- (b) on or before April 30, of every year thereafter; and
- (c) within thirty (30) days after separation from the service.

All public officials and employees required under this section to file the aforestated documents shall also execute, within thirty (30) days from the date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain from all appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their

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business interests and financial connections in previous years, including, if possible, the year when they first assumed any office in the Government.

Husband and wife who are both public officials or employees may file the required statements jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

- (1) Constitutional and national elective officials, with the national office of the Ombudsman;
- (2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and all national executive officials with the Office of the President.
- (3) Regional and local officials and employees, with the Deputy Ombudsman in their respective regions;
- (4) Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and
- (5) All other public officials and employees, defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

(B) Identification and disclosure of relatives. - It shall be the duty of every public official or employee to identify and disclose, to the best of his knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) Accessibility of documents. - (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

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(D) Prohibited acts. - It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any purpose contrary to morals or public policy; or
- (b) any commercial purpose other than by news and communications media for dissemination to the general public.

Section 11 of R.A. No. 6713 imposed the following penalties:

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.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.

(d) The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000). If another sanction hereunder or under any other law is heavier, the latter shall apply.

In these cases, the accused is charged of six (6) counts of violation of Section 8(A) of R.A. No. 6713. Accused's alleged failure to file the SALNs for 2007 and 2010 and her alleged failure to disclose the business interest of her husband Atty. Robert M. Sison in the law firm "Robert M. Sison and Partners"

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in the SALNs for 2005 to 2010, in particular, are the very *lis mota* of these cases.

For one to be convicted for violation of Section 8(A) of R.A. No. 6713, the following elements must concur:

1. That the offender is a public official or employee required by law to file his/her sworn SALN; and
2. That the offender either: (a) did not file a SALN within the required period; or (b) did not disclose any of the required information in the SALN.

First element

There is no dispute that the first element is present in the case at bar, accused Sison having been, on the date material to this case, a public official and required by law to file her SALNs. According to Section 3(b) of R.A. No. 6713, the term "public officials" includes appointive officials and employees.

Second element

As to the second element, there are two modes of violating Section 8(A) of R.A. No. 6713, namely: (1) by failing to file a SALN within the required period, or (b) by failing to disclose any of the required information in the SALN.

Prosecution claims that accused deliberately failed to file her SALNs for the years 2007 and 2010, as proven by the following witnesses:

- (a) Apolonia R. Vivo, the Chief Administrative Officer of the CHED, who testified that there was no record in the CHED files of accused Sison's 2007 SALN for which she issued a Certification⁷⁰ to this effect. She also testified that while she was able to find in CHED's records a 2010 SALN,⁷¹ the same was received by her office on June 25, 2014, way beyond the reglementary period for filing.
- (b) Julie Ann A. Garcia, SALN-in-Charge Officer from the Office of the Ombudsman who issued a Certification⁷²

⁷⁰ Exhibit BB

⁷¹ Exhibit M

⁷² Exhibit AA

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similarly stating that based on its records, accused Sison did not have any filed SALNs for the years 2007 and 2010.

- (c) Ellenita G. Gatbuntun, from the Office of the President, who identified a Certification⁷³ issued by then Director Marianito M. Dimaandal stating that based on its records, accused Sison did not have any filed SALN for the years 2001 to 2008 and 2010.

After a thorough study on the matter, the Court is of the considered view that accused indeed filed her SALNs for 2007 and 2010 within the prescribed period.

The verb "file" is defined in the *Black's Law Dictionary* as "[t]o deliver a legal document to the court clerk or record custodian for placement into the official record."⁷⁴ In the *Webster's Dictionary*, it means "to deliver (as a legal paper or instrument) after complying with any condition precedent (as the payment of a fee) to the proper officer for keeping on file or among the records of his office."⁷⁵ Under Section 2 of Rule 13 of the 1997 Rules of Civil Procedure, it is defined as "the act of presenting the pleading or other paper to the clerk of court."

From the foregoing definitions, the act of "filing" requires (1) the act of delivering or presenting a document and (2) to a proper officer or office.

As used in Section 8 of R.A. No. 6713, the "filing" of the SALN should not only be made by the public official with the proper officer/agency, it must also be made within the period prescribed, as follows:

- a) Within thirty (30) days after assumption of office;
- b) On or before April 30 of every year thereafter; and
- c) Within thirty (30) days after separation from the service.

The Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (the IRR) issued by the Civil Service Commission⁷⁶ allows the filing of sworn SALNs to be made by submitting the same to the

⁷³ Exhibit V

⁷⁴ *Black's Law Dictionary* (8th ed., 2004), p. 660

⁷⁵ *Webster's Third New International Dictionary of the English Language*, Unabridged 849 (3^d ed. 2002).

⁷⁶ According to Section 12 of R.A. No. 6713, the Civil Service Commission is authorized to promulgate rules and regulations necessary to carry out the provisions of this Act.

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administrative/personnel division/units in the public officials' respective agencies not later than April 30. Section 1, paragraph (d), Rule VII of the IRR provides:

(d) Submission of Sworn Statements. – Officials and employees who are required to file their sworn statements with the Civil Service Commission must accomplish the form [(Annex A, Revised 1994)] in triplicate and submit the original and duplicate copies to the Administrative/Personnel Division/Unit in their respective agencies not later than April 30. The Chief of the Administrative/Personnel Division/Unit must then transmit on or before June 30 of every year, all original copies of the sworn statements they received arranged alphabetically and bound with a covering list of filers in alphabetical order to the Office of the Central Personnel Records, Civil Service Commission, Constitution Hills, Batasan Complex, Diliman, Quezon City.

All other offices may prescribe a different procedure for filing.⁷⁷

The IRR considers the public official's act of submission of the duly accomplished SALN to the administrative/personnel division/unit in his/her agency within the prescribed period as substantial compliance with the law insofar as the requirement of filing of SALN is concerned. In turn, the head of the administrative/personnel division/unit has the duty to transmit on or before June 30 of every year all original copies of the SALNs to the CSC or to the relevant repository agency. Clearly, the law and the rules do not require public officials to go personally to the repository agencies concerned to file their SALNs. It is sufficient that they submit their duly accomplished SALNs to their respective administrative/personnel office within their agencies on or before the deadline for filing the same.

CSC Resolution No. 06-0231 issued on February 1, 2006 further clarifies the place of the filing of the SALNs of public officials as follows, to wit:

Rule VIII. Review and Compliance Procedures.

Section 1. Filing and Submission of SALN on Time and **to the Proper Official.**

a. All public officials and employees, except those who serve in an official honorary capacity, without service credit or pay, temporary labors and casual or temporary and contractual workers, shall **file under oath** their SALNs and Disclosure of Business Interests and Financial Connections

⁷⁷ As amended by CSC Memorandum Circular No. 20, s. 1994 dated May 31, 1994.

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with their respective **Chief or Head of the Personnel/Administrative Divisions or Units/Human Resource Management Office (HRMO)**, to wit:

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

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Section 2. Duties of the Chief/Head of the Personnel/Administrative Division or Unit/HRMO.

Upon receiving the SALN forms, the Chief/Head of the Personnel/Administrative Division or Unit/HRMO shall **evaluate** the same to determine whether said statements have been properly accomplished when all applicable information or details required therein are provided by the filer. Items not applicable to the filer should be marked "N/A." (not applicable)

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Sec. 5. Transmittal of all submitted SALNs to the concerned agencies. - The Chief/Head of the Personnel/Administrative Division or Unit/HRMO shall **transmit all original copies of SALNs** received on or before June 30 of every year **to the concerned offices**, as specified below:

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It must be stressed that the above-quoted Section 1, paragraph (d), Rule VII of the IRR provides that "other offices may prescribe a different procedure for filing."

In these cases, the CHED may provide or prescribe a different internal procedure for filing SALNs among its personnel. It is worthy to note that the CHED is the proper office or agency to which accused should file her SALN for the years 2007 and 2010 as she has already reported back to it on October 1, 2007 after her special detail in the National Security Council (NSC).

As demonstrated by the accused, there was already substantial compliance in filing within the meaning of the above-mentioned definitions and rules. She observed the

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regular internal procedure of the CHED for the submission of her SALNs for 2007 and 2010 as she did in the prior years with CHED. The regular internal procedure of the CHED for the submission by its employees of their respective SALNs consists of each employee personally filling out their SALN and thereafter endorsing the same, through the administrative staff of the CHED in their office, to his direct superior or the head of the CHED for signing. The submission of each SALN for signing and its subsequent filing are facilitated and carried out by the administrative staff of the CHED, after the SALN is personally filled out by the CHED employee required to submit the same.⁷⁸

As for the SALN for 2007,⁷⁹ she continued with the same procedure she did for her previous SALNs in the CHED.⁸⁰ She personally endorsed the SALN for 2007, through her office staff, to Chairperson Neri, who was the CHED Chairperson and her superior at that time. Although the prosecution contends that there was no receiving stamp from the Office of the President of the Office of the Ombudsman or the CHED, the same is not, per se, proof of non-filing. In fact, a close scrutiny of the records reveal that accused's SALNs for other years, except for the 2010 SALN, also have no receiving stamp, yet no issue was made as to their filing. And although it turns out that there was no complete filing of the SALN for 2007, as admitted by the accused,⁸¹ there was already substantial compliance when she personally endorsed the said SALN, through her office staff, to Chairperson Neri who was the head of the CHED and her superior at that time.

As for the SALN for 2010,⁸² she also followed the same procedure as in previous years. Prosecution contends that the same could not be considered as compliance because although there was a receiving stamp on the 2010 SALN, it was submitted on June 25, 2014 or three (3) years after the required period for filing.⁸³ However, it is clear on the face of the said SALN that it was notarized before the Notary Public of the CHED as early as April 7, 2011, which is before the supposed deadline for the filing of the SALN for that year. This negates the prosecution's claim that there was deliberate intention on the part of the

⁷⁸ Supra note 1 at 487.

⁷⁹ Exhibit 11

⁸⁰ The informations show no issue as to the filing of her SALNs prior to that in 2007. The same goes for her SALNs for 2008 and 2009.

⁸¹ Supra note 1 at 504.

⁸² Exhibit 12

⁸³ Memorandum dated March 15, 2019.

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accused not to file her SALN for 2010 within the required period.⁸⁴

In addition, to prove that the accused did not submit and/or file her SALNs for the years 2007 and 2010, the prosecution offered as evidence two (2) Certifications from the Office of the President, one dated December 3, 2012⁸⁵ and the other, dated May 22, 2018.⁸⁶ However, these pieces of evidence could not establish the fact that the accused failed to submit and/or file her SALNs for 2007 and 2010 pursuant to the CHED's internal process or to the existing CSC Circular. What the certification proved is that the said SALNs are not the possession of the Office of the President or the CHED. In *Concerned Taxpayer v. Doblada, Jr.*,⁸⁷ the Supreme Court found no sufficient evidence to prove that respondent failed to file his SALN. The report of the Court Administrator, which was used as evidence against respondent, did not have a categorical statement that he failed to file his SALN. It only stated that the subject SALNs were not on file with the OCA. The High Court ruled that "one cannot readily conclude that respondent failed to file his sworn SALN for the years [in question] simply because these documents are missing in the files of the OCA." Considering that respondent presented proof of the existence of his SALNs and factually established their submission to the appropriate government agency, the Supreme Court inferred that he did file his SALNs.

This Court is inclined to believe, as well, that accused did not deliberately intend to miss the filing of her SALNs for the years 2007 and 2010 as, in fact, no issue as to her SALNs for the other years was brought to this Court.⁸⁸ If anything, a close scrutiny of the records reveals a pattern that accused has been consistently complying, at least substantially and in good faith, with the duty to file her SALNs since 2001.

Based on the foregoing, there was failure to prove the existence of the second element of violation of Section 8(A) of R.A. No. 6713 as to the filing of the SALNs within the period prescribed by law.

On the other hand, the prosecution also claims that the accused deliberately failed to declare the business interest of

⁸⁴ Id.

⁸⁵ Exhibit V

⁸⁶ Exhibit BB

⁸⁷ A.M. No. P-99-1342, June 8, 2005.

⁸⁸ Supra note 68.

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her husband Atty. Robert M. Sison in the purported law firm "Robert M. Sison and Partners" in her SALNS for the years 2005 to 2010.⁸⁹

In this regard, the Court is inclined to give credence to the explanation of the accused that the reasons why she did not indicate the business interest of Atty. Sison in the said law firm in her SALNS for 2005 to 2010 is that *first*, the purported law firm "Roberto M. Sison and Partners" was never organized, incorporated or registered under Philippine law and *second*, the entry in her Curriculum Vitae (CV) of the supposed law firm "Robredo M. Sison and Partners" as of 2010 does not, by itself, prove the existence of the said law firm and consequently, her husband's interest in it; hence she did not declare it as her business interest or that of her husband Roberto M. Sison.⁹⁰

Anent the first reason, accused allegedly did not indicate the business of interest of Atty. Sison in the purported law firm "Robert M. Sison and Partners" as she found it illogical for her or her husband to have a business interest in what she believed to be a non-existent law firm, as there was never any law firm that was registered or existed in that name.⁹¹ The Court is satisfied with the explanation given by the accused in light of the pronouncement given by the Supreme Court as to when a partnership exists in *Heirs of Lim vs Lim*,⁹² viz:

A partnership exists when two or more persons agree to place their money, effects, labor, and skill in lawful commerce or business, with the understanding that there shall be a proportionate sharing of the profits and losses among them. A contract of partnership is defined by the Civil Code as one where two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.

Undoubtedly, the best evidence would have been the contract of partnership or the articles of partnership.

Based on the above, the contract of partnership or the articles of partnership would have been the best evidence. Unfortunately for the prosecution, none was, and can be, presented in this case, because the alleged partnership was, in fact, never formally organized. In her defense, accused was able to present the Certification of Non-Registration of Company

⁸⁹ Supra note 1 at 238-241.

⁹⁰ Id. at 238-239.

⁹¹ Supra note 1 at 489.

⁹² G.R. No. 172690, March 03, 2010

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issued by the SEC⁹³ and the Certification issued by the Bureau of Permits of the City of Manila.⁹⁴ This bolsters the claim of the accused that that no such law firm exists or is registered; hence she deemed it unnecessary to indicate such in her SALNs for 2005 to 2010.

Prosecution further contends that accused admitted indicating such business interest of her husband in 2004 SALN and thereafter reasoned that she did not declare the same in her SALNs for 2005 to 2010.⁹⁵ The accused addressed this during the course of her testimony,⁹⁶ viz:

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PROS. RAYPON

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Q So, Ma'am, you're saying that the partnership actually does not exist but you also confirm your statement in your Counter-Affidavit that you will have a loose arrangement of an unregistered partnership with Atty. Roberto M. Sison?

ATTY. POBLADOR:

There is no inconsistency, Your Honors.

CHAIRPERSON:

Answer

WITNESS:

Your Honors, when I say loose partnership it was just we exchange opinions, he asked my opinion, I gave it to him, that is the nature of the partnership arrangement that we had, that's why, I said it's loose, it's not registered and there is no business interest in it.

PROS. RAYPON:

But there is a loose arrangement of an unregistered partnership because had limited practice of law as stated in your Counter-Affidavit?

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Yes, Ma'am.

⁹³ Exhibit 1.

⁹⁴ Exhibit 2.

⁹⁵ Supra note 71.

⁹⁶ TSN dated February 11, 2019

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ATTY. POBLADOR:

Q Who is Roberto M. Sison?

A Roberto M. Sison is my husband.

Q And when were you married?

A **We were married on March 28, 2005.**

Q So, after you were married in 2005, you were still already with CHED?

A Yes, Sir, I was in CHED since 2000.

Q **And this so-called loose partnership you had with your husband Roberto M. Sison, what happened to it after you got married?**

A **We were married already so there was no more any such arrangement but we were husband and wife already, Your Honors, then.**

Q A while ago you were confronted with your Counter-Affidavit in the criminal case specifically in the preliminary investigation before the Ombudsman and you were shown your specific testimonies as indicated in paragraph Q6 as well as paragraph 5A. Now, let me start with paragraph Q6 which is found on page 8 of the Counter-Affidavit. "In my SALNs from 2000 to 2004, I indicated that I was engaged in a limited practice with what was loosely termed as Roberto M. Sison and Partners an unregistered official arrangement between me and Atty. Roberto M. Sison since 1995 as will be explained in more detail detail herein below." It says here with respect to your SALNs from 2000 to 2004.

A That is correct, Sir.

Q Were you married already then?

A No, Sir.

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Q Okay. So, this specific answer found in paragraph Q.6 refers to the period of time before your marriage to Roberto M. Sison, correct?

A Yes, sir.

Q Now, let's go to paragraph 5A appearing on page 9 of the same Counter-Affidavit and let me just quote the specific statement there. "Atty. Roberto M. Sison and I had an informal and loose form of unregistered partnership arrangement since I was allowed limited practice of profession." Was this before or during the marriage?

PROS. RAYPON:

Leading, Your Honors.

CHAIRPERSON:

Reform.

ATTY. POBLADOR:

Q What is the time frame involved in this specific testimony found in paragraph 5A of your Counter-Affidavit?

A It's the same time frame as I mentioned in paragraph Q6 which is 2000 and 2004.

Q Before your marriage to Roberto M. Sison?

A Yes, Sir.

Q Now, let's go to Exhibit G for the prosecution. You were shown Exhibit G and the prosecution asked you to confirm an entry in this document under the heading B, business interests and financial connec[t]ions, and it says here name of firm/company law office and the address given is 1951 Diamante corner Pasig Line, Sta Ana, Manila, Nature of Business Interest and/or Financial Connections Partner, date of acquisition or connection, 1995. Now, let me show this item to you so there is no doubt that I have read it accurately. Ms. Witness, please note that this is the SALN for 2004 because the heading says

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as of 31 December 2004. Now, at this time, what was your civil status?

A I was still single, Sir.

Q This was prior to your marriage to Roberto M. Sison?

A Yes, Sir.

Q And this address is 1951 Diamante corner Pasig Line, Sta. Ana, Manila, what is this address?

A That is the residential address of Atty. Roberto M. Sison, it is their ancestral place.

Q This was before your marriage to him?

A Yes, Sir.

xxx (Emphasis Supplied)

Obviously, accused has arrogated unto herself the interpretation of what existing business interest or financial connection, including that of her spouse, should be included in her SALNs. She allegedly did not find it necessary to indicate the so-called 'informal and loose form of unregistered partnership arrangement' because of her subsequent marriage to Atty. Roberto M. Sison in 2005. Meanwhile, the prosecution seems to imply that the filling up of the SALN should be given a strict interpretation, insisting that the law recognizes the concept of an unregistered partnership and partnership by estoppel.⁹⁷

Even if the accused's interpretation turns out to be erroneous, this Court considers this as a mere error of judgment on her part, which, however, is not tantamount to an unethical aberration that would make her criminally liable. This is consistent with the liberal interpretation to the accomplishment of SALNs given by the High Court in *Iglesia v. Office of the Ombudsman, et al.*:⁹⁸

On a final note, this Court endeavors to strike a balance between the accountability of public officers as a result of public office being a privilege on the one hand, and their right to privacy as protected in the Bill of Rights, on the other.

⁹⁷ Supra note 71.

⁹⁸ G.R. No. 180745, August 30, 2017

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Although this Court has held that the requirement of submitting a SALN does not violate the right to privacy of public officers, it does not mean that they should completely shed this right. **Therefore, minor or explainable errors in the SALN, which cannot be related to an attempt to conceal illicit activities, should not be punishable. This Court may relax the rule on strictly complying with the SALN in cases where minor errors were committed since these may simply be used to harass and obstruct public officers in the performance of their duties.** xxx (Emphasis Supplied)

The Supreme Court observed in *Navarro v. Office of the Ombudsman*,⁹⁹ that many public officials and employees who are required to file the SALN do not have sufficient knowledge as to how the SALN form should be filled out:

On July 8, 2011, the CSC came out with CSC Resolution No. 1100902, prescribing the guidelines in the filling out of the Revised SALN form for the year 2011.

On March 15, 2012, however, the CSC issued CSC Resolution No. 1200480 deferring the implementation of CSC Resolution No. 1100902 for several reasons, one of which was the concern of the Senate Committee that **"the majority of government workers are unequipped with sufficient knowledge on how to accomplish the said form properly.**

Hence accused cannot be entirely faulted if she subscribed to a particular interpretation when she accomplished her SALNs for 2005 to 2010. Besides, the Court sees nothing wrong with an omission in the SALN if the same can be satisfactorily explained and verified, as in the instant case.

Furthermore, contrary to prosecution's contention that accused failed to prove that the unregistered partnership no longer existed on 2005 onwards,¹⁰⁰ the burden to prove the existence of the partnership beyond reasonable doubt lies with the prosecution and not on the accused who is presumed to be innocent. In *Daayata v. People*,¹⁰¹ the Supreme Court held:

Conviction in criminal actions demands proof beyond reasonable doubt. Rule 133, Section 2 of the Revised Rules on Evidence states:

Section 2. Proof beyond reasonable doubt. - In a criminal case, the accused is entitled to an acquittal,

⁹⁹ GR No. 210128, Aug 17, 2016

¹⁰⁰ Supra note 71.

¹⁰¹ G.R. No. 205745, March 8, 2017

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unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

While not impelling such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience. While indeed imbued with a sense of altruism, this imperative is borne, not by a mere abstraction, but by constitutional necessity:

This rule places upon the prosecution the task of establishing the guilt of an accused, relying on the strength of its own evidence, and not banking on the weakness of the defense of an accused. Requiring proof beyond reasonable doubt finds basis not only in the due process clause of the Constitution, but similarly, in the right of an accused to be "presumed innocent until the contrary is proved." **"Undoubtedly, it is the constitutional presumption of innocence that lays such burden upon the prosecution." Should the prosecution fail to discharge its burden, it follows, as a matter of course, that an accused must be acquitted.** As explained in *Basilio v. People of the Philippines*:

We ruled in *People v. Ganguso*:

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as, excluding the possibility of error, produce absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.



x-----x

Well-entrenched in jurisprudence is the rule **that the conviction of the accused must rest, not on the weakness of the defense, but on the strength of the prosecution. The burden is on the prosecution to prove guilt beyond reasonable doubt, not on the accused to prove his innocence.** (Emphasis Supplied)

As for the second reason, accused claims that the entry in her CV of the supposed law firm "Robredo M. Sison and Partners" as of 2010 does not, by itself, prove the existence of the said law firm and consequently, her husband's interest in it; hence she did not declare it as her business interest or that of her husband Roberto M. Sison.¹⁰² Accused, while admitting the existence of such entry, explained in the course of her testimony that such entry was a mistake which she sincerely asks the court to consider with leniency and compassion. While there may have been a violation of the Code of Professional Responsibility,¹⁰³ as what the prosecution has pointed out,¹⁰⁴ the Court is constrained to rule only on the matter of non-filing of the SALNs and non-disclosure of the business interest of accused's spouse in her SALNs. This is not the proper venue to determine her culpability under the Code of Professional Responsibility.

Considering that the prosecution has not sufficiently established that Atty. Sison has an existing business interest in the purported law firm which should necessarily be indicated in the SALNs for 2005 to 2010, it cannot be said that there was deliberate failure to declare such business interest on the part of the accused.

Finally, accused should have been informed of any irregularity in the SALNs through the issuance of a warning, memorandum, letter or any other form of notice so she could have made the necessary explanation or correction prior to the filing of the complaint against her. In *Navarro vs. Office of the Ombudsman*,¹⁰⁵ the High Court held:

Although it is the duty of every public official/employee to properly accomplish his/her SALN, it is not too much to ask for the head of the appropriate department/office to have called his attention should

¹⁰² *Id.* at 238

¹⁰³ Canon 3, Code of Professional Responsibility. Canon 3 – A lawyer in making known his legal services shall use only true, honest, fair, dignified and objective information or statement of facts. Rule 3.01 - A lawyer shall not use or permit the use of any false, fraudulent, misleading, deceptive, undignified, self-laudatory or unfair statement or claim regarding his qualifications or legal services.

¹⁰⁴ *Supra* note 71.

¹⁰⁵ GR No. 210128, Aug 17, 2016

x-----x

there be any irregularity or incorrectness in his SALN. This is in consonance with the Review and Compliance Procedure under R.A. No. 6713, as well as its Implementing Rules and Regulations (IRR), providing for the procedure for review of statements to determine whether they have been properly accomplished. To reiterate, it is provided in the IRR that in the event the authorities determine that a SALN is not properly filed, they should inform the reporting individual and direct him to take the necessary corrective action. In the instant case, however, the prosecution has not sufficiently established that accused was given, through a letter, memorandum or any other form of notice, the opportunity to rectify the alleged irregularities in her SALNs.

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The Court is mindful of the duty of public officials and employees to disclose their assets, liabilities and net worth accurately and truthfully. In keeping up with the constantly changing and fervent society and for the purpose of eliminating corruption in the government, the new SALN is stricter, especially with regard to the details of real properties, to address the pressing issue of transparency among those in the government service. Although due regard is given to those charged with the duty of filtering malicious elements in the government service, it must still be stressed that such duty must be exercised with great caution as grave consequences result therefrom. **Thus, some leeway should be accorded the public officials. They must be given the opportunity to explain any prima facie appearance of discrepancy.** (Emphasis Supplied)

In this case, however, accused was not given the chance to rectify the alleged non-filing of her 2007 and 2010 SALNs and non-disclosure of the business interest of her husband in her SALNs for 2005 to 2010. Regardless, accused was able to sufficiently explain the reasons for the alleged non-filing and omissions in the subject SALNs.

All told, the totality of the evidence presented failed to prove beyond reasonable doubt the existence of all the elements constituting the violation of Section 8(A), in relation to Section 11, of R.A. 6713. Hence, the matter should now be laid to rest as accused need wrestle no more with the instant criminal charges.

WHEREFORE, in view of the foregoing, this Court finds accused Carmelita P. Yadao-Sison:

x-----x

- a. **NOT GUILTY** in SB-18-CRM-0104 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt;
- b. **NOT GUILTY** in SB-18-CRM-0105 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt;
- c. **NOT GUILTY** in SB-18-CRM-0106 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt;
- d. **NOT GUILTY** in SB-18-CRM-0107 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt;
- e. **NOT GUILTY** in SB-18-CRM-0108 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt;
- f. **NOT GUILTY** in SB-18-CRM-0109 and **ACQUITS** her of the charge of violation of Section 8(A) of R.A. No. 6713 on the ground of reasonable doubt.

Considering that the act or omission from which the civil liability might arise does not exist, no civil liability may be assessed against the accused.

The cash bond which accused posted for her temporary liberty during the pendency of these cases are hereby ordered released, subject to the usual accounting and auditing procedures.

Moreover, the Hold Departure Order dated February 15, 2018 is SET ASIDE and declared *functus officio*.

SO ORDERED.

Quezon City, Metro Manila, Philippines.

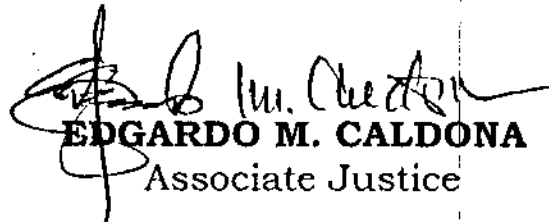
Geraldine Faith A. Econg
GERALDINE FAITH A. ECONG
Associate Justice

WE CONCUR:

[Signature]

x-----x

EFREN N. DE LA CRUZ
Associate Justice
Chairperson


EDGARDO M. CALDONA
Associate Justice

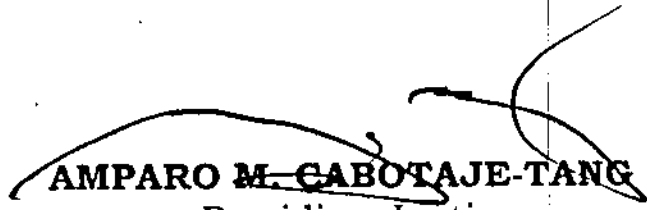
ATTESTATION

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


EFREN N. DE LA CRUZ
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

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