

EN BANC

[G.R. No. 201176, August 28, 2019]

ESTRELLA ABID-BABANO, PETITIONER, VS. EXECUTIVE SECRETARY, RESPONDENT.

DECISION

BERSAMIN, C.J.:

The requirement under Republic Act No. 6713^[1] and similar laws that the sworn statement of assets, liabilities, and net worth (SALN) to be filed by every government official must include assets, liabilities, and net worth of the spouse of the filer is construed not to include the assets, liabilities, and net worth of spouses whose property regime during the marriage is by law or by agreement prior to the marriage one of complete separation of property.

The Case

Petitioner appeals the adverse decision promulgated on October 21, 2011,^[2] whereby the Court of Appeals (CA) affirmed the decision of the Office of the President (OP) finding her guilty of simple neglect of duty for her failure to disclose in her SALN certain motor vehicles belonging to her husband, himself a public servant required to file his own SALN.^[3]

Antecedents

The undisputed facts, as quoted from the assailed decision of the CA, are as follows:

This refers to [the] July 3, 2007 Resolution of the Presidential Anti Graft Commission (PAGC) recommending the suspension of [respondent in the proceedings *a quo* and petitioner herein] DepEd Regional Director Estrella Abid Babano for six (6) months and one (1) day to one (1) year, in this wise:

"WHEREFORE, PREMISES CONSIDERED, the Commission finds the [petitioner], Estrella Abid Babano Regional Director of Department of Education-Region XII, GUILTY of violating Section 8 of R.A. No. 6713 and Section 46(b)(1) of E.O. 292 for her failure to declare in her SALN for the years 2000 to 2005 two vehicles registered under the name of her spouse. On the other hand, the Commission finds the [petitioner] NOT GUILTY of violating Section 7 of R.A. 3019 and Section 8 of R.A. No. 6713 for her failure to declare that she had three (3) lots in Naawan, Misamis Oriental instead of one (1) lot. Likewise the Commission found [petitioner] NOT GUILTY of violating Section 46(b)(3) and (13) of E.O. 292. Accordingly,

applying the guidelines in the application of penalty in Rule XIV of Section 22 of the Omnibus Rules Implementing Book V of E.O. 292, the penalty to be imposed should be SUSPENSION FOR SIX MONTHS AND ONE DAY TO ONE YEAR with its accessory penalties under Section 12 of the same law.

SO RESOLVED."

[Prior thereto, or on] March 20, 2007, finding [a] *prima facie* case on [the] anonymous complaint, the PAGC formally charged [petitioner] Babano for violation of Section 7, RA 3019 and Section 8, RA 6713 arising from her failure to disclose in her Statement of Assets, Liabilities and [Net Worth] (SALN) certain real properties and motor vehicles, as follows:

"xxx xxx xxx

2. That contrary to her declaration that there is only one (1) home lot situated in Naawan Misamis Oriental, Dir. Babano actually owns three (3) residential lots in Brgy. Linangcayan, Misamis Oriental as evidenced by Tax Declaration Nos. G-004400, G-004398, and G-004401, respectively...;
3. That aside from the above-mentioned, Dir. Babano further failed to declare in her SALN for the years 2000-2005 the following vehicles to wit: one (1) 1997 Isuzu Hilander with Plate No. KCC 329 and one (1) 1996 Honda Civic with Plate No. GHR 999 ...;

xxx xxx xxx"

Interposing the defenses that the undeclared motor vehicles are not her[s] but of her husband, Macmod S. Pangandaman, and the fact that she correctly declared the amount of P400,000.00 in her SALN corresponding to the acquired assets although their details were inaccurately stated due to inadvertence, [petitioner] denied the charges.

The PAGC found [petitioner] not liable of the charge under paragraph 2 on the ground that the purpose of the law is already served by [her] disclosure of the value of the property and there is a basis for comparison for her wealth before and during the time she served as public officer. "It is clear and proven that the three (3) lots which are the subject of the Deed of Absolute Sale are the same lots discovered by the Commission to be owned by [petitioner] in Naawan, Misamis Oriental." PAGC explained that:

"[Petitioner] in her SALN, list[s] the property as a 'house and lot' despite the fact that the property is actually composed of a house and three lots. However, [she] correctly indicated that the acquisition cost of the said 'house and lot' as Four Hundred Thousand Pesos (Php 400,000), which is the consideration in the Deed of Sale."

Anent the charge under paragraph 3, PAGC found [petitioner] "guilty of simple neglect of duty for failing to perform her legal obligation to disclose her assets, liabilities and [net worth], including that of her spouse as mandated by law. [Petitioner] herself admitted that her own spouse owns an Isuzu Highlander (sic) and a Honda Civic. These properties should have been reported in her SALN. Her failure to do so exposes her to disciplinary actions." According to PAGC, "Section 8 (A) of R.A. 6713 requires public officials and employees to file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interest and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households." Also, PAGC noted that for want of proof of intent to deceive the government, [petitioner] cannot be held liable for dishonesty and/or falsification.^[4]

Ruling of the OP

In its decision issued on October 19, 2007,^[5] the OP upheld the recommendations and findings of the Presidential Anti-Graft Commission (PAGC) except that on the penalty, and disposed thusly:

WHEREFORE, premises considered, Estrella Abid Babano, Regional Director, Department of Education-Region XII, is guilty of Simple Neglect of Duty and hereby **SUSPENDED** from the service for six (6) months with accessory penalty under the law.

SO ORDERED.^[6]

Decision of the CA

Petitioner appealed the decision of the OP by petition for review on the following grounds, namely: (1) both petitioner and her husband were Muslims whose property regime was that of complete separation of property as provided by Presidential Decree No. 1083 (*Code of Muslim Personal Laws*); (2) petitioner's husband did not live with her in her household but with his first wife in a separate household; and (3) he was also a government employee who "ha[d] or ought to have filed his own SALN."^[7]

The CA denied the petition for review on October 21, 2011,^[8] and affirmed the ruling of the OP, holding that:

FOR REASONS STATED, the Petition for Review is DENIED. The assailed Decision of the Office of President is AFFIRMED *in toto*.

SO ORDERED.^[9]

Petitioner moved for reconsideration, but the CA denied her motion on February 24, 2012.^[10]

Issue

It is noted at the outset that all charges against petitioner were dismissed save for

the administrative charge of neglect in relation to her non-disclosure in her SALNs of the vehicles owned by her husband. Hence, this appeal dwells on sole issue of:

WHETHER OR NOT THE NON-INCLUSION BY PETITIONER IN HER SALN OF THE VEHICLES OWNED BY AND REGISTERED IN THE NAME OF HER HUSBAND IS CORRECT OR A NEGLECT OF DUTY OR A MISTAKE IN GOOD FAITH.^[11]

Ruling of the Court

The appeal is meritorious.

The requirement of filing the SALN is imposed by no less than the 1987 Constitution, and its objectives are to promote transparency in the civil service and to establish a deterrent against government officials bent on enriching themselves through unlawful means.

To implement the constitutional imposition, Republic Act No. 6713 was adopted, under whose Section 8^[12] every government official or employee is required to accomplish and submit a sworn statement completely disclosing his or her assets, liabilities, net worth, and financial and business interests, including those of his/her spouse and unmarried children under 18 years of age living in their households. The requirement for the SALN was previously implemented through Republic Act No. 3019 (*Anti-Graft and Corrupt Practices Act*), which relevantly provided:

SECTION 7. *Statement of assets and liabilities.* - Every public officer, within thirty days after the approval of this Act or after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or chief of an independent office, with the Office of the President, or in the case of members of the Congress and the officials and employees thereof, with the Office of the Secretary of the corresponding House, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: *Provided*, That public officers assuming office less than two months before the end of the calendar year, may file their first statements in the following months of January.

The purpose of the law on SALN disclosure is to suppress any questionable accumulation of wealth that usually results from the nondisclosure of such matters.^[13]

Petitioner filed her SALN but did not disclose therein the motor vehicles pertaining to her husband. She contended in her defense that she was not obliged to include the properties of her husband in her SALN because "her understanding was that she should include in her SALN (only) the assets, liabilities, net worth and financial business interest of her husband Macmod S. Pangandaman found in their common household."^[14]

However, both the CA and the OP held petitioner liable for simple neglect of duty for her omissions. As the CA pointed out, Republic Act No. 6713 required petitioner's disclosure in her SALN of properties pertaining to her spouse without exception, *viz.*:

The law specifically provides that the public official must include in her SALN the above-enumerated items including those pertaining to her spouse. The law does not provide an exception to anybody. It does not state that the SALN is subject to whatever property regime the spouses may have agreed to other than that of absolute community property. *Ubi lex non distinguit nec nos distinguere debemos*. When the law makes no distinction, this Court also ought not to recognize any distinction.^[15]

Upon careful consideration of the circumstances of this case, the Court finds that sufficient legal and equitable reasons existed to warrant the granting of the petition for review on *certiorari*, and the consequent reversal of the adverse ruling of the CA.

Both petitioner and her husband were Muslims. She was his second wife. Article 38 of the *Code of Muslim Personal Laws* specifically defines their regime of property relations as Muslims to be one of complete separation of property, to wit:

Article 38. *Regime of property relations*. The property relations between the spouses, in the absence of any stipulation to the contrary in the marriage settlements or any other contract, shall be governed by the regime of complete separation of property in accordance with this Code and, in a suppletory manner, by the general principles of Islamic law and the Civil Code of the Philippines.

Article 42^[16] of the *Code of Muslim Personal Laws* lays down the effect of the regime of complete separation of property for Muslim spouses, and each spouse fully exercises all acts of ownership and administration over his or her own exclusive property, without any need for consent from the other spouse.

As to what are considered the exclusive property of either spouse, Article 41 of the *Code of Muslim Personal Laws* states:

ARTICLE 41. *Exclusive property of each spouse*. - The following shall be the exclusive property of either spouse:

- (a) Properties brought to the marriage by the husband or the wife;
- (b) All income derived by either spouse from any employment, occupation or trade;
- (c) Any money or property acquired by either spouse during marriage by lucrative title;
- (d) The dower (*mahr*) of the wife and nuptial gifts to each spouse;
- (e) Properties acquired by right of redemption, purchase or exchange of the exclusive property of either; and
- (f) All fruits of properties in the foregoing paragraphs.