

## FIRST DIVISION

**[ G.R. No. 192723, June 05, 2017 ]**

**LEOVIGILDO A. DE CASTRO, PETITIONER, V. FIELD  
INVESTIGATION OFFICE, OFFICE OF THE OMBUDSMAN AND THE  
COMMISSIONER OF CUSTOMS, RESPONDENTS.**

### D E C I S I O N

**CAGUIOA, J:**

#### *The Case*

This is a petition for review on *certiorari*<sup>[1]</sup> (Petition) filed under Rule 45 of the Rules of Court against the Decision<sup>[2]</sup> dated April 29, 2009 (Assailed Decision) and Resolution<sup>[3]</sup> dated June 23, 2010 (Assailed Resolution) in CA-G.R. SP No. 99752 rendered by the Second Division of the Court of Appeals (CA). The Assailed Decision and Resolution stem from an appeal from the Decision<sup>[4]</sup> dated March 26, 2007 rendered by the Office of the Ombudsman (Ombudsman) in OMB-C-A-05-0617-K, finding petitioner Leovigildo A. De Castro (Leovigildo) guilty of Dishonesty and Grave Misconduct, and imposing upon him the penalty of dismissal from service, cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification from re-employment in the government service.

The administrative charges filed against Leovigildo are anchored on his alleged failure to file truthful Statements of Assets and Liabilities (SALNs) for the years 1994, 1995 and 1996, and explain the manifest disproportion between his declared income for the years 1973 to 2004 and the value of the assets he acquired within the same period.<sup>[5]</sup>

#### *The Facts*

Leovigildo began working in the Bureau of Customs (BOC) on December 4, 1973<sup>[6]</sup> as storekeeper at the Manila International Airport.<sup>[7]</sup> Since then, Leovigildo had been assigned to occupy the following positions:<sup>[8]</sup>

| <b>Year of Assignment</b> | <b>Position</b>                        |
|---------------------------|--|
| 1979                      | Common Bonded Inspector                |
| 1980                      | Common Bonded Supervisor               |
| 1986                      | Customs Operations Assistant Chief     |
| 1989                      | Supervising Customs Operations Officer |
| 1996                      | Chief Customs Operations Officer       |

Marina Rios (Marina), Leovigildo's wife, also served in government. Sometime in July 1969, Marina began working as a clerk in the now defunct Philippine Atomic Energy Commission.<sup>[9]</sup> Thereafter, Marina rose through the ranks, until she retired as a training officer sometime in 1988.<sup>[10]</sup>

Based on the Certificates of Employment and Compensation which form part of the records of the case, Leovigildo and Marina's declared income from 1974 to 2004 amounted to **P10,841,412.28**.<sup>[11]</sup>

Sometime in 2003, the Ombudsman, through its Field Investigation Office (FIO), conducted *motu proprio* lifestyle checks on government officials and employees.<sup>[12]</sup> Leovigildo was among those evaluated. The findings of the FIO in respect of Leovigildo's assets and net worth are summarized as follows:

Documents revealed that [Leovigildo] earns primarily from his salary as an employee of the [BOC]. [Leovigildo's] annual salary as of 2004 is estimated at [P]303,052.54, including allowances and bonuses.

[Leovigildo's] [SALN] from 1994 to 2003 showed that neither he nor his spouse had financial connections and business interests. Thus, [Leovigildo] [had] no other source of income except his salary from employment.

[Leovigildo], in his SALN from 1997 to 2003, declared a residential house and lot in Parañaque, a house and lot in Taal[,] Batangas, and an agricultural land in Laguna. [Leovigildo] also disclosed that he acquired a car worth [P]625,000.00 in 2002.

Records show that there are other properties and business interests belonging to [Leovigildo] which were not declared in his SALNs such as his investments amounting to P416,669.00 in Lemar Export and Import Corporation, which was incorporated on 25 May 1994.

There are also properties registered under the name (sic) of [Leovigildo's] children, which should be considered as part of his undisclosed assets, in view of the fact that during the time of the acquisition, the children have (sic) no sources of income or means of livelihood of their own.<sup>[13]</sup>

The assets in the names of Leovigildo's children (Disputed Assets), which FIO alleged should be attributed to Leovigildo, are further summarized as follows:<sup>[14]</sup>

| Asset   | Acquisition Cost              | Date of Acquisition | Registered Owner                                    | Age at Acquisition                  |
|---|-------------------------------|---------------------|---|-------------------------------------|
| Investment in Lemar Export and Import Corporation (Lemar Corp.) | P625,003.50                   | May 25, 1994        | Marina Rose and Leo Gerald, jointly with Leovigildo | Marina Rose - 18<br>Leo Gerald - 24 |
| 450 square-meter (sq.   | P5,708,600.00 <sup>[15]</sup> | December 3, 1997    | Leo Gerald  | 27                                  |

|  |                                     |                      |  |   |
|--|-------------------------------------|----------------------|--|---|
| m.)<br>residential<br>house and lot<br>in Muntinlupa<br>City       |                                     |                      |  |   |
| Investment<br>in De Castro<br>Oral Implant<br>Center               | P500,000.00                         | February<br>28, 1998 | Leo Gerald   | 28  |
| Condominium<br>unit in Makati<br>City                              | P3,984,929.75                       | August 28,<br>1998   | Leo Gerald   | 28  |
| Investment<br>in Lemar<br>General<br>Trading<br>(Lemar<br>Trading) | P3,500,000.00 <sup>[16]</sup>       | February 2,<br>1999  | Leo Gerald<br>Marie Aleli<br>(Aleli)<br>Marie<br>Antoinette<br>(Antoinette)<br>Leovigildo,<br>Jr.<br>Marina Rose | Leo Gerald<br>-29<br>Aleli -28<br>Antoinette-<br>26<br>Leovigildo,<br>Jr. -24<br>Marina<br>Rose- 23 |
| Condominium<br>unit in Ayala<br>Alabang,<br>Muntinlupa<br>City     | P5,676,861.64                       | July 8, 1999         | Leovigildo,<br>Jr.   | 24  |
| Toyota Land<br>Cruiser   | P2,800,000.00                       | June 19,<br>2000     | Leo Gerald   | 30  |
| Investment<br>in Ceraco<br>Corporation<br>(Ceraco)                 | P120,000.00                         | December<br>19, 2001 | Leovigildo,<br>Jr.   | 26  |
| Investment<br>in Le Mar<br>Dental Clinic                           | P100,000.00                         | January 21,<br>2003  | Marina Rose  | 27  |
| Honda CRV<br>Wagon   | P701,832.00 on<br>installment basis | February<br>27, 2004 | Marina Rose  | 28  |
| Total Value  | <b>P23,717,226.89</b>               |                      |  |   |

In addition to Leovigildo's alleged undisclosed assets and investments, the FIO also found that based on Bureau of Immigration (BI) records, Leovigildo and his family had taken seventy (70) outbound flights between 1993-2004 to several countries, including Japan, Hong Kong and South Korea. The FIO pegged the cost of such trips at P30,000.00 each, bringing the De Castros' total estimated travel cost to **P2,100,000.00.**<sup>[17]</sup>

Consequently, the FIO concluded that Leovigildo and Marina's assets and expenses from 1974-2004 amounted to P30,829,603.48,<sup>[18]</sup> and found that this was manifestly disproportionate to their declared income of **P10,841,412.28.**<sup>[19]</sup>

Subsequently, the FIO filed a Complaint<sup>[20]</sup> dated October 5, 2005 before the Ombudsman, charging Leovigildo of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, pursuant to Section 22 of the Omnibus Rules Implementing Book V of Executive Order No. 292<sup>[21]</sup> (Omnibus Rules).<sup>[22]</sup> In the same Complaint, FIO prayed that (i) a preliminary investigation be conducted against Leovigildo for violation of Section 8 of Republic Act No. (R.A.) 6713<sup>[23]</sup> and Article 183 of the Revised Penal Code;<sup>[24]</sup> and (ii) forfeiture proceedings be lodged against Leovigildo, Marina, and their children.<sup>[25]</sup>

On March 24, 2006, the Ombudsman issued an Order placing Leovigildo under preventive suspension.<sup>[26]</sup>

In his Counter-Affidavit<sup>[27]</sup> dated August 28, 2006, Leovigildo maintained that the assets which he and Marina acquired while in government service were all reported in their respective SALNs. Leovigildo summarized these assets accordingly:

Income from 1974 to 2004      P10,841,412.28

Less:  
Properties  
acquired (at  
acquisition  
cost):

|   |                      |
|---|----------------------|
| - House and [lot], Paranaque            | P381,536.59          |
| - House and lot at Taal, Batangas       | 135,000.00           |
| - Agricultural land, Sta. Maria, Laguna | 30,000.00            |
| - Toyota Premio                         | 500,000.00           |
| - Other personal properties             | <u>530,000.00</u>    |
|   | <u>P1,576,536.59</u> |

Expenses:

|                                     |                   |
|-------------------------------------|-------------------|
| - Cash donation to Leo Gerald, 1995 | P1,000,000.00     |
| - Wedding gift to Leo Gerald and    | <u>250,000.00</u> |

Angelica  
Beatriz,  
1998

P1,250,000.00 (2,826,536.59).

Available  
funds for  
family/other  
expenses

P8,014,875.69

Less: Cash on  
hand [as of]  
December 31,  
2004

115,000.00

Actual family  
and other  
expenses

P7,899,875.69 [28]

Based on these figures, Leovigildo averred that the net value of the assets he and Marina acquired for the period in question amounts only to P1,576,536.59.[29] Further, he also argued that FIO bloated his net worth by using the market values of the properties declared in his SALNs as basis for their computation, instead of using their respective acquisition costs.[30]

Leovigildo also insisted that his children are all professionals who possess the financial capacity to acquire the Disputed Assets that FIO wrongfully attributed to him.[31] He then proceeded to detail his children's professional qualifications to bolster his defense:

|                 | Degree  | Acquisition of license | Sources of Income   |
|-----------------|---|------------------------|---|
| Leo Gerald      | Leo Gerald Dentistry, Centro Escolar University | 1994                   | (i) service in various dental clinics; (ii) service in own clinic at the Medical Plaza, Makati; (iii) service as professor at Our Lady of Fatima University; (iv) service as company dentist at Global Lighting Phils., Inc.; (v) rental income from clinic space; and (vi) sales income from Lemar Trading[32] |
| Leovigildo, Jr. | Law, Ateneo Jr. de Manila University            | 2000                   | (i) service as associate for Quasha Ancheta Pena and Nolasco Law Office; (ii) service as Chief Legal Counsel of Philippine Power Distributors   |