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WHEREFORE, respondent Atty. James Joseph Gupana is found administratively liable for misconduct and is **SUSPENDED** from the practice of law for one year. Further, his notarial commission, if any, is **REVOKED** and he is disqualified from reappointment as Notary Public for a period of two years, with a stern warning that repetition of the same or similar conduct in the future will be dealt with more severely.

Let copies of this Decision be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts all over the country. Let a copy of this Decision likewise be attached to the personal records of respondent.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Reyes, JJ.,* concur.

SECOND DIVISION

[A.M. No. P-11-2903. February 5, 2014]
(Formerly A.M. OCA IPI No. 09-2181-MTJ)

ANGELITO R. MARQUEZ, EDUARDO R. MARQUEZ, CRISTINA M. OCAMPO, CARMEN MARQUEZ-ROSAS, HEIRS OF ERNESTO MARQUEZ, RENATO R. MARQUEZ, ALFREDO R. MARQUEZ, FRED EVANGELISTA, JOSE MACALINO, SANTIAGO MARQUEZ, SPOUSES FREDDIE and JOCELYN FACUNLA, SPOUSES RODRIGO and VIRGINIA MAZON, SPOUSES ALFONSO and LEONILA CASCO, SPOUSES BENJAMIN and PRISCILLA BUENAVIDES, EDUARDO FACUNLA, and ALICIA A. VILLANUEVA, *complainants, vs.* **JUDGE VENANCIO M. OVEJERA in his capacity**

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as presiding judge of Municipal Trial Court of Paniqui, Tarlac, and SHERIFF IV LOURDES E. COLLADO, Regional Trial Court, Branch 67, Paniqui, Tarlac, *respondents.*

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; FAILURE TO COMPLY WITH THE LEGAL REQUIREMENT IN THE SUBMISSION OF STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH (SALN); FINE, IMPOSED.— Based on Section 8 of RA 6713 as above-stated, "all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like," should be declared by the public official in his or her SALN. In this case, however, it was established, through Collado's admission, that she only declared the original amount of her time deposits in her SALN for the years 2004 and 2005, and did not disclose the interests which had eventually accrued on the same. Accordingly, Collado fell short of the legal requirement stated under Section 8 of RA 6713 and thus should be held administratively liable for said infraction. x x x As for the appropriate penalty, Section 11 of RA 6713 states that "[a]ny 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, among others,] a fine not exceeding the equivalent of six (6) months' salary x x x depending on the gravity of the offense after due notice and hearing by the appropriate body or agency." Consistent with existing jurisprudence, the Court finds that the penalty of a fine in the amount of ₱5,000.00 is amply justified considering that Collado's misstep in her SALN for the years 2004 and 2005 appears to be her first offense, adding too that same does not appear to have been attended by any bad faith or fraudulent intent.

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R E S O L U T I O N

PERLAS-BERNABE, *J.*:

For the Courts resolution is a Consolidated Administrative Complaint [1] (subject complaint) filed against respondents Judge Venancio M. Ovejera (Judge Ovejera) and Sheriff IV Lourdes E. Collado (Collado) for abuse of authority, disregard of due process, misuse and fabrication of judicial orders, arrogance and conduct unbecoming of an officer of the court, and, with respect to Collado, violations of: (*a*) Republic Act No. (RA) 6713, [2] otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," particularly the provisions on the submission of Statements of Assets, Liabilities and Net Worth (SALN) of public officials and employees; and (*b*) RA 9160,[3] otherwise known as the "Anti-Money Laundering Act of 2001" (AMLA), as amended by RA 9194[4] and RA 10167.[5]

The Facts

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[1] *Id.* at 1-4.

[2] Entitled "AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES."

[3] Entitled "AN ACT DEFINING THE CRIME OF MONEY LAUNDERING, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES."

[4] Entitled "AN ACT AMENDING REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE 'ANTI-MONEY LAUNDERING ACT OF 2001.'"

[5] Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-MONEY LAUNDERING LAW, AMENDING FOR THE PURPOSE SECTIONS 10 AND 11 OF REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT OF 2001, AS AMENDED, AND FOR OTHER PURPOSES."

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Complainants Angelito R. Marquez, Eduardo R. Marquez, Cristina M. Ocampo, Carmen Marquez-Rosas, Heirs of Ernesto Marquez, Renato R. Marquez, Alfredo R. Marquez, Fred Evangelista, Jose Macalino, and Santiago Marquez were the defendants in **Civil Case No. 1330**, entitled "*Jose Labutong v. Eduardo R. Marquez, et al.,*" involving a suit for unlawful detainer and damages, while complainants Spouses (Sps.) Freddie and Jocelyn Facunla, Sps. Rodrigo and Virginia Mazon, Sps. Alfonso and Leonila Casco, Sps. Benjamin and Priscilla Buenavides, Eduardo Facunla, and Alicia A. Villanueva (collectively, complainants) were the defendants in **Civil Case No. 1416**, entitled "*Agueda Garlitos, et al. v. Sps. Benjamin & Priscilla Buenavides, et al.,*" involving a suit for recovery of possession and damages. Both cases were filed before the Municipal Trial Court of Paniqui, Tarlac, and raffled to the sala of Judge Ovejera. Eventually, the aforementioned cases were decided against complainants.[6]

For their part, the complainants involved in Civil Case No. 1330 appealed the MTC decision adverse to them to the Regional Trial Court of Paniqui Tarlac, Branch 67 (RTC). The appeal was, however, dismissed on June 7, 2007,[7] leading to the issuance of a writ of execution on January 15, 2008.[8] Due to said complainants' failure to vacate the premises, a writ of demolition was issued on April 15, 2008.[9] Maintaining that there was a pending appeal before the Court of Appeals involving the same parties, the latter moved[10] for the stoppage of the writ of demolition's implementation, but the same was denied in an Order[11] dated March 30, 2009 issued by Judge Ovejera wherein

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[6] See the Decision dated January 19, 2007 in Civil Case No. 1330 (*rollo*, pp. 28-35) and the Decision dated March 9, 2009 in Civil Case No. 1416 (*id.* at 115-118).

[7] *Id.* at 39-40 and 171.

[8] *Id.* at 37-38.

[9] *Id.* at 171.

[10] *Id.* at 41-42.

[11] *Id.* at 44.

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it was enunciated that the proffered ground is not one which could validly stay the implementation of a writ of execution/ demolition. Similarly, a writ of execution was issued in Civil Case No. 1416 on May 21, 2009,[12] followed by a writ of demolition[13] on August 7, 2009 due to the failure of the complainants in said case to remove the improvements involved therein. Collado, in her capacity as sheriff, was tasked to implement the writs of demolition issued in both cases.[14]

Feeling aggrieved, complainants filed the subject complaint before the Office of the Court A dministrator (OCA) on August 25, 2009, docketed as A.M. OCA IPI No. 09-2181-MTJ, imputing abuse of authority, disregard of due process, misuse and fabrication of judicial orders, arrogance and conduct unbecoming of an officer of the court against Ovejera and Collado in relation to the issuance and implementation of the afore-stated writs of demolition. In addition, Collado was charged with violating the AMLA and failure to disclose in her S A L N for the years 2004 and 2005 certain time deposits (subject time deposits) with the Moncada Womens Credit Corporation (MW CC) in the following amounts: (*a*) ₱200,100.00 on September 3, 2003; (*b*) ₱300,100.00 on December 29, 2003; (*c*) ₱400,100.00 on January 28, 2004; (*d*) ₱400,100.00 on January 28, 2004; (*e*) ₱500,100.00 on April 28, 2004; (*f*) ₱600,100.00 on April 28, 2004; (*g*) ₱500,100.00 in July 2004; and (*h*) ₱800,100.00 on October 25, 2004.[15]

In his Comment,[16] Judge Ovejera denied the charges and contended that the complaint was baseless and failed to state the specific acts complained. He maintained that the writs of execution and demolition were issued in accordance with law

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[12] *Id.* at 119-120.

[13] *Id.* at 121-122.

[14] See undated Sheriff's Report in Civil Case No. 1330 (*id.* at 111) and Sheriff's Report dated September 17, 2009 in Civil Case No. 1416 (*id.* at 124).

[15] See Complaint, *id.* at 1; see also *id.* at 19-23.

[16] *Id.* at 94-100.

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and pointed out that a similar administrative case, i.e., OCA IPI NO. 09-2168 MTJ, had already been filed against him by the same complainants and dismissed by the Court in a Resolution dated November 25, 2009.[17]

Collado also filed her Comment,[18] denying any abuse of authority on her part and contending that she was merely implementing a lawful order of the court. She likewise claimed that she did not misuse or fabricate a judicial order, explaining that complainants were only misled by the caption indicated in her correspondence to the Barangay Captain relative to the writ of demolition issued in Civil Case No. 1330. Finally, she questioned the authenticity of the documents submitted by complainants for her alleged violation of the A MLA and refused to comment on the same for being premature.[19]

The Action and Recommendation of the OCA

In a Memorandum [20] dated November 5, 2010, the OCA found no factual and legal bases to support the complaint against Judge Ovejera and Collado for violations of their administrative and judicial functions. Nonetheless, finding that Collado did not indicate in her S A L N for the years 2004 and 2005 the amounts indicated in the subject time deposits,[21] the OCA recommended that the matter be re-docketed as a regular administrative case for possible violations of the pertinent provisions on SALN submission and the A MLA , and that the same be referred to the Executive Judge of the RTC for further investigation, report and recommendation. The OCAs recommendations were adopted by the Court in a Resolution [22] dated February 2, 2011, and the case was re-docketed as A .M. No. P-11-2903.

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[17] *Id.* at 95.

[18] *Id.* at 92-93.

[19] *Id.*

[20] *Id.* at 170-177.

[21] *Id.* at 176.

[22] *Id.* at 178-179.

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In her Report and Findings[23] dated June 3, 2011, RTC Executive Judge Liberty O. Castañeda (Executive Judge) recommended the dismissal of the complaint against Collado, finding that: (*a*) while the imputed amounts on the subject time deposits were not specifically stated in her SA L N for the years 2004 and 2005 as Collado herself admitted,[24] she nonetheless declared the initial capital thereof as an asset therein, (*b*) she honestly believed then that the interest on said deposits may only be declared when the certificates of time deposit were converted into cash; and (*c*) she had no intent to falsify her SALN. The Executive Judge also did not find any violation of the AMLA absent any evidence that Collado's investment with the MWCC was sourced from any unlawful activity enumerated under the subject law, noting further that Collado had not made a single deposit of ₱500,000.00 or more at any instance as shown in MWCCs Certification[25] dated May 4, 2011. The matter was then referred to the OCA for evaluation, report and recommendation.[26]

In a Memorandum [27] dated August 13, 2012, the OCA , based on a Certification [28] dated January 22, 2010 of the Office of Administrative Services (OAS Certification), found that Collado failed to submit her S A L N for the years 2000 and 2001. Citing Section 8 of RA 6713, among others, the OCA pointed out that every public officer is mandated to submit a true, detailed and sworn statement of his assets and liabilities. However, it no longer delved on the issue of whether or not Collado's time deposits were reflected in her S A L N for the years 2004 and 2005 considering that she had already retired in 2011 and no copies of the subject SALNs could be found in her 201 file.

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[23] *Id.* at 277-278.

[24] *Id.* at 277.

[25] *Id.* at 273.

[26] *Id.* at 279. See Resolution dated October 19, 2011.

[27] *Id.* at 285-291.

[28] *Id.* at 88.

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Accordingly, the OCA recommended that Collado be fined in an amount equivalent to her salary for six (6) months.

The Issue Before the Court

The lone issue left for the Court's resolution is whether or not Collado should be held administratively liable for violating the pertinent provisions on SALN submission.

The Court's Ruling

The Court concurs with the OCA , but modifies the penalty imposed to a fine of only ₱5,000.00.

Section 8[29] of RA 6713, requires all public officials and employees to accomplish and submit declarations under oath of their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under 18 years of age living in their households. In this relation, the same provision mandates full disclosure of the concerned public official's (*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.

Verily, the requirement of SALN submission is aimed at curtailing and minimizing the opportunities for official corruption,

[29] 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.

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as well as at maintaining a standard of honesty in the public service. [30] With such disclosure, the public would, to a reasonable extent, be able to monitor the affluence of public officials, and, in such manner, provides a check and balance mechanism to verify their undisclosed properties and/or sources of income. [31]

Based on Section 8 of RA 6713 as above-stated, "all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like," should be declared by the public official in his or her SALN. In this case, however, it was established, through Collado's admission, [32] that she only declared the original amount of her time deposits in her S A L N for the years 2004 and 2005, and did not disclose the interests which had eventually accrued on the same. Accordingly, Collado fell short of the legal requirement stated under Section 8 of RA 6713 and thus should be held administratively liable for said infraction.

The Court cannot hold Collado administratively liable for her purported failure to submit her S A L N for the years 2000 and 2001 as she was not given an opportunity to be heard on this matter considering that said infraction was not included in the original charge.

As for the appropriate penalty, Section 11 of RA 6713 states that "[a]ny 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, among others,] a fine not exceeding the equivalent of six (6) months' salary x x x depending on the gravity of the offense after due notice and hearing by the appropriate body or agency." Consistent with existing jurisprudence, [33] the Court finds that the penalty of a fine in

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[30] *The Ombudsman v. Valeroso*, 548 Phil. 688, 697-698 (2007). See also *Flores v. Montemayor*, G.R. No. 170146, August 25, 2010, 629 SCRA 178.

[31] See *The Ombudsman v. Valeroso, id.* at 698.

[32] *Rollo*, p. 277.

[33] See *OCA v. Usman*, A.M. No. SCC-08-12 (Formerly OCA IPI No.

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the amount of ₱5,000.00 is amply justified considering that Collado's misstep in her SALN for the years 2004 and 2005 appears to be her first offense, adding too that same does not appear to have been attended by any bad faith or fraudulent intent.

Separately, the Court finds it unnecessary to delve on Collado's purported violation of the A MLA since the complaint and the records are bereft of any substantial basis on this score. In similar regard, the complaint against Judge Ovejera appears to be unsupported by any substantial basis, and is therefore dismissed.

WHEREFORE, respondent Lourdes E. Collado is found **GUILTY** of violating Section 8 in relation to Section 11 of Republic Act No. 6713 for her failure to duly comply with the legal requirements pertaining to the submission of her Statement of Assets, Liabilities and Net Worth (SALN) and is thus **FINED** the amount of ₱5,000.00 to be deducted from her retirement benefits in view of her compulsory retirement on June 11, 2011. On the other hand, the administrative complaint against Judge Venancio M. Ovejera is **DISMISSED**.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perez, JJ.*, concur.

09-2181-MTJ), October 19, 2011, 659 SCRA 411, 416-417 wherein the Court held as follows:

In the present case, respondent clearly violated the above-quoted laws when he failed to file his SALN for the years 2004-2008. He gave no explanation either why he failed to file his SALN for five (5) consecutive years. While every office in the government service is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the Judiciary. Hence, judges are strictly mandated to abide with the law, the Code of Judicial Conduct and with existing administrative policies in order to maintain the faith of our people in the administration of justice.

Considering that this is the first offense of the respondent, albeit for five years, the Court shall impose a fine of only Five Thousand Pesos (₱5,000.00) with warning.