

PRESIDENTIAL ANTI-GRAFT COMMISSION (PAGC) AND THE OFFICE OF THE PRESIDENT, PETITIONERS, VS. SALVADOR A. PLEYTO, RESPONDENT.

G.R. No. 176058. March 23, 2011

Ponente: ABAD, J.

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ABAD, J.:

This case is about the dismissal of a department undersecretary for failure to declare in his Sworn Statement of Assets, Liabilities, and Net Worth (SALN) his wife's business interests and financial connections.

The Facts and the Case

On December 19, 2002 the Presidential Anti-Graft Commission (PAGC) received an anonymous letter-complaint[1] from alleged employees of the Department of Public Works and Highways (DPWH). The letter accused DPWH Undersecretary Salvador A. Pleyto of extortion, illicit affairs, and manipulation of DPWH projects.

In the course of the PAGC's investigation, Pleyto submitted his 1999,[2] 2000,[3] and 2001[4] SALNs. PAGC examined these and observed that, while Pleyto said therein that his wife was a businesswoman, he did not disclose her business interests and financial connections. Thus, on April 29, 2003 PAGC charged Pleyto before the Office of the President (OP) for violation of Section 8 of Republic Act (R.A.) 6713,[5] also known as the Code of Conduct and Ethical Standards for Public Officials and Employees" and Section 7 of R.A. 3019[6] or "The Anti-Graft and Corrupt Practices Act." [7]

Pleyto claimed that he and his wife had no business interests of any kind and for this reason, he wrote "NONE" under the column "Business Interests and Financial Connections" on his 1999 SALN and left the column blank in his 2000 and 2001 SALNs.[8] Further, he attributed the mistake to the fact that his SALNs were merely prepared by his wife's bookkeeper.[9]

On July 10, 2003 PAGC found Pleyto guilty as charged and recommended to the OP his dismissal with forfeiture of all government financial benefits and disqualification to re-enter government service.[10]

On January 29, 2004 the OP approved the recommendation.[11] From this, Pleyto filed an Urgent Motion for Reconsideration[12] claiming that: 1) he should first be allowed to avail of the review and compliance procedure in Section 10 of R.A. 6713[13] before he is administratively charged; 2) he indicated "NONE" in the column for financial and business interests because he and his wife had no business interests related to DPWH; and 3) his failure to indicate his wife's business interests is not punishable under R.A. 3019.

On March 2, 2004 PAGC filed its comment,[14] contending that Pleyto's reliance on the Review and Complicance Procedure was unavailing because the mechanism had not yet been established and, in any case, his SALN was a sworn statement, the contents of which were beyond the corrective guidance of the DPWH Secretary. Furthermore, his failure to declare his wife's business interests and financial connections was highly

irregular and was a form of dishonesty.

On March 11, 2005 Executive Secretary Eduardo R. Ermita ordered PAGC to conduct a reinvestigation of Pleyto's case.[15] In compliance, PAGC queried the Department of Trade and Industry of Region III-Bulacan regarding the businesses registered in the name of Miguela Pleyto, his wife. PAGC found that she operated the following businesses: 1) R.S. Pawnshop, registered since May 19, 1993; 2) M. Pleyto Piggery and Poultry Farm, registered since December 29, 1998; 3) R.S. Pawnshop-Pulong Buhangin Branch, registered since July 24, 2000; and 4) RSP Laundry and Dry Cleaning, registered since July 24, 2001.[16]

The PAGC also inquired with the DPWH regarding their Review and Compliance procedure. The DPWH said that, they merely reminded their officials of the need for them to comply with R.A. 6713 by filing their SALNs on time and that they had no mechanism for reviewing or validating the entries in the SALNs of their more than 19,000 permanent, casual and contractual employees.[17]

On February 21, 2006 the PAGC maintained its finding and recommendation respecting Pleyto.[18] On August 29, 2006 the OP denied Pleyto's Motion for Reconsideration.[19] Pleyto raised the matter to the Court of Appeals (CA),[20] which on December 29, 2006 granted Pleyto's petition and permanently enjoined the PAGC and the OP from implementing their decisions.[21] This prompted the latter offices to come to this Court on a petition for review.[22]

Issues Presented

This case presents the following issues:

1. Whether or not the CA erred in not finding Pleyto's failure to indicate his spouse's business interests in his SALNs a violation of Section 8 of R.A. 6713.
2. Whether or not the CA erred in finding that under the Review and Compliance Procedure, Pleyto should have first been allowed to correct the error in his SALNs before being charged for violation of R.A. 6713.

The Court's Rulings

This is the second time Pleyto's SALNs are before this Court. The first time was in G.R. 169982, *Pleyto v. Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG)*. [23] In that case, the PNP-CIDG filed on July 28, 2003 administrative charges against Pleyto with the Office of the Ombudsman for violating, among others, Section 8 of R.A. 6713 in that he failed to disclose in his 2001 and 2002 SALNs his wife's business interests and financial connections.

On June 28, 2004 the Office of the Ombudsman ordered Pleyto dismissed from the service. He appealed the order to the CA but the latter dismissed his petition and the motion for reconsideration that he subsequently filed. Pleyto then assailed the CA's ruling before this Court raising, among others, the following issues: 1) whether or not Pleyto violated Section 8(a) of R.A. 6713; and 2) whether or not Pleyto's reliance on the Review and Compliance Procedure in the law was unwarranted.

After threshing out the other issues, this Court found that Pleyto's failure to disclose his wife's business interests and financial connections constituted simple negligence, not gross misconduct or dishonesty. Thus:

Neither can petitioner's failure to answer the question, "Do you have any business interest and other financial connections including those of your spouse and unmarried children living in your household?" be tantamount to gross misconduct or dishonesty. On the front page of petitioner's 2002 SALN, it is already clearly stated that his wife is a businesswoman, and it can be logically deduced that she had business interests. Such a statement of his wife's occupation would be inconsistent with the intention to conceal his and his wife's business

interests. That petitioner and/or his wife had business interests is thus readily apparent on the face of the SALN; it is just that the missing particulars may be subject of an inquiry or investigation.

An act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or purposes, does not qualify as gross misconduct, and is merely simple negligence. Thus, at most, petitioner is guilty of negligence for having failed to ascertain that his SALN was accomplished properly, accurately, and in more detail.

Negligence is the omission of the diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time and of the place. In the case of public officials, there is negligence when there is a breach of duty or failure to perform the obligation, and there is gross negligence when a breach of duty is flagrant and palpable. Both Section 7 of the Anti-Graft and Corrupt Practices Act and Section 8 of the Code of Conduct and Ethical Standards for Public Officials and Employees require the accomplishment and submission of a true, detailed and sworn statement of assets and liabilities. Petitioner was negligent for failing to comply with his duty to provide a detailed list of his assets and business interests in his SALN. He was also negligent in relying on the family bookkeeper/accountant to fill out his SALN and in signing the same without checking or verifying the entries therein. Petitioner's negligence, though, is only simple and not gross, in the absence of bad faith or the intent to mislead or deceive on his part, and in consideration of the fact that his SALNs actually disclose the full extent of his assets and the fact that he and his wife had other business interests.

Gross misconduct and dishonesty are serious charges which warrant the removal or dismissal from service of the erring public officer or employee, together with the accessory penalties, such as cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in government service. Hence, a finding that a public officer or employee is administratively liable for such charges must be supported by substantial evidence.[24]

The above concerns Pleyto's 2001 and 2002 SALN; the present case, on the other hand, is about his 1999, 2000 and 2001 SALNs but his omissions are identical. While he said that his wife was a businesswoman, he also did not disclose her business interests and financial connections in his 1999, 2000 and 2001 SALNs. Since the facts and the issues in the two cases are identical, the judgment in G.R. 169982, the first case, is conclusive upon this case.

There is "conclusiveness of judgment" when any right, fact, or matter in issue, directly adjudicated on the merits in a previous action by a competent court or necessarily involved in its determination, is conclusively settled by the judgment in such court and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[25]

Thus, as in G.R. 169982, Pleyto's failure to declare his wife's business interest and financial connections does not constitute dishonesty and grave misconduct but only simple negligence, warranting a penalty of forfeiture of the equivalent of six months of his salary from his retirement benefits.[26]

With regard to the issue concerning compliance with the Review and Compliance Procedure provided in R.A. 6713, this Court already held in G.R. 169982 that such procedure cannot limit the authority of the Ombudsman to conduct administrative investigations. R.A. 6770, otherwise known as "The Ombudsman Act of 1989," intended to vest in the Office of the Ombudsman full administrative disciplinary authority.[27] Here, however, it was the PAGC and the OP, respectively, that conducted the investigation and meted out the penalty of dismissal against Pleyto. Consequently, the ruling in G.R. 169982 in this respect cannot apply.

Actually, nowhere in R.A. 6713 does it say that the Review and Compliance Procedure is a prerequisite to the filing of administrative charges for false declarations or concealments in one's SALN. Thus:

Section 10. Review and Compliance Procedure. - (a) The designated Committees of both Houses of the Congress shall establish procedures for the review of statements to determine whether said statements which have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.

The provision that gives an impression that the Review and Compliance Procedure is a prerequisite to the filing of an administrative complaint is found in paragraph (b) of Section 10 which states that "The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after the issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act." This provision must not, however, be read in isolation.

Paragraph (b) concerns the power of the Review and Compliance Committee to interpret the law governing SALNs. It authorizes the Committee to issue interpretative opinions regarding the filing of SALNs. Officers and employees affected by such opinions "as well as" all who are similarly situated may be allowed to correct their SALNs according to that opinion. What the law prohibits is merely the retroactive application of the committee's opinions. In no way did the law say that a public officer clearly violating R.A. 6713 must first be notified of any concealed or false information in his SALN and allowed to correct the same before he is administratively charged.

Furthermore, the only concern of the Review and Compliance Procedure, as per paragraph (a), is to determine whether the SALNs are complete and in proper form. This means that the SALN contains all the required data, i.e., the public official answered all the questions and filled in all the blanks in his SALN form. If it finds that required information has been omitted, the appropriate Committee shall so inform the official who prepared the SALN and direct him to make the necessary correction.

The Court cannot accept the view that the review required of the Committee refers to the substance of what is stated in the SALN, i.e., the truth and accuracy of the answers stated in it, for the following reasons:

First. Assuring the truth and accuracy of the answers in the SALN is the function of the filer's oath^[28] that to the best of his knowledge and information, the data he provides in it constitutes the true statements of his assets, liabilities, net worth, business interests, and financial connections, including those of his spouse and unmarried children below 18 years of age.^[29] Any falsity in the SALN makes him liable for falsification of public documents under Article 172 of the Revised Penal Code.

Second. The law will not require the impossible, namely, that the Committee must ascertain the truth of all the information that the public officer or employee stated or failed to state in his SALNs and remind him of it. The DPWH affirms this fact in its certification below:

This is to certify that this Department issues a memorandum every year reminding its officials and employees

to submit their Statement of Assets and Liabilities and Networth (SALN) in compliance with R.A. 6713. Considering that it has approximately 19,000 permanent employees plus a variable number of casual and contractual employees, the Department does not have the resources to review or validate the entries in all the SALNs. Officials and employees are assumed to be accountable for the veracity of the entries considering that the SALNs are under oath.[30]

Indeed, if the Committee knows the truth about the assets, liabilities, and net worth of its department's employees, there would be no need for the law to require the latter to file their sworn SALNs yearly.

In this case, the PAGC succeeded in discovering the business interest of Pleyto's wife only after it subpoenaed from the Department of Trade and Industry--Bulacan certified copies of her business interests there. The Heads of Offices do not have the means to compel production of documents in the hands of other government agencies or third persons.

The purpose of R.A. 6713 is "to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest." [31] The law expects public officials to be accountable to the people in the matter of their integrity and competence. Thus, the Court cannot interpret the Review and Compliance Procedure as transferring such accountability to the Committee.

WHEREFORE, the Court GRANTS the petition but finds petitioner Salvador A. Pleyto guilty only of simple negligence and imposes on him the penalty of forfeiture of the equivalent of six months of his salary from his retirement benefits.

SO ORDERED.

Carpio, (Chairperson), Brion,[*] Peralta, and Bersamin,**] JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order 975 dated March 21, 2011.

**] Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated August 3, 2009.

[1] Rollo, pp. 83-89.

[2] Id. at 92.

[3] Id. at 90.

[4] Id. at 91.

[5] 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.

[6] 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 statements in the following months of January.

[7] Rollo, pp. 93-95.

[8] Id. at 96-101.

[9] Id. at 108-109.

[10] Id. at 124-132.

[11] Id. at 133-138.

[12] Id. at 139-152.

[13] Section 10. Review and Compliance Procedure. - (a) The designated Committees of both Houses of the Congress shall establish procedures for the review of statements to determine whether said statements which have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.

[14] Rollo, pp. 153-162.

[15] Id. at 163.

[16] Id. at 164-172.

[17] Id. at 173.

[18] Id. at 174.

[19] Id. at 175-184.

[20] Id. at 185-228.

[21] Id. at 60-82.

[22] Id. at 32-59.

[23] November 23, 2007, 538 SCRA 534.

[24] Id. at 586-588.

[25] *Abelita III v. Doria*, G.R. No. 170672, August 14, 2009, 596 SCRA 220, 230.

[26] *Pleyto v. Philippine National Police-CIDG*, *supra* note 23, at 595-596.

[27] Id. at 593.

[28] Republic Act 6713 (1989), Sec. 8.

[29] Pleyto's SALN Form, rollo, p. 113.

[30] Rollo, p. 173.

[31] Republic Act 6713 (1989), Sec. 2.

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