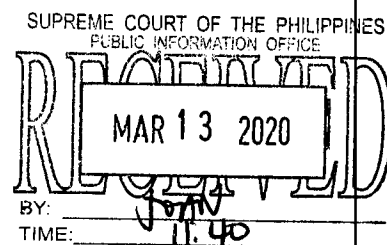




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 12, 2020 which reads as follows:

“G.R. No. 250600 – (MONTASIR MELING SABAL, Petitioner, vs. PNP-CRIMINAL INVESTIGATION AND DETECTION GROUP represented by RAYMUND A. LIGUDEN, Respondent)

We deny the petition.

First. In *Ombudsman v. Vergara*¹ the Court clarified that “*the abandonment of the doctrine of condonation is prospective in application, hence, the same doctrine is still applicable in cases that transpired prior to the ruling of this Court in Carpio-Morales v. CA and Jejomar Binay, Jr.*” Further, in *Crebello v. Ombudsman*,² it was underscored that the prospective application of *Carpio-Morales* should be reckoned from April 12, 2016 because that was the date on which this Court had acted upon and denied with finality the motion for clarification/motion for partial reconsideration thereon.

Here, the Court of Appeals was correct when it applied the condonation doctrine to petitioner’s infractions which he committed prior to his reelection as municipal mayor on May 13, 2013. However, we hold that petitioner cannot avail of the condonation doctrine for the infractions he committed after his reelection on May 13, 2013 and prior to his reelection on May 9, 2016. For *Carpio-Morales* already put a stop to the cleansing effect of reelection after April 12, 2016. Thus, his reelection on May 9, 2016 no longer has any condoning effect.

¹ G.R. No. 216871, December 06, 2017, 848 SCRA 151, 171-172.

² G.R. No. 232325, April 10, 2019.

Verily, petitioner should be held liable for the omissions in his 2014 and 2015 SALNs as well as his unauthorized travels on January 2, 2016 and August 28, 2016.

Second. Failure to file a truthful SALN may either be considered as dishonesty or negligence, depending on the circumstances and whether there is clear showing that there is unexplained wealth. *San Diego v. Fact-Finding Investigation Committee*³ explains:

In *Daplas v. Department of Finance*, the Court held that the failure to file a truthful SALN puts in doubt the integrity of the public officer or employee, and would normally amount to dishonesty. However, mere non-declaration of the required data in the SALN does not automatically amount to such an offense. "Dishonesty requires malicious intent; to conceal the truth or to make false statements. In addition, a public officer or a public officer or employee becomes susceptible to dishonesty only when such non-declaration results in the accumulated wealth becoming manifestly disproportionate to his/her income, and income from other sources, and he/she fails to properly account or explain these sources of acquisitions."

The Court stressed in *Daplas* that the laws on SALN aim to curtail the acquisition of unexplained wealth. In several cases where the source of the undisclosed wealth was properly accounted for, the Court deemed the undisclosed wealth as properly accounted for, and deemed the same as an "explained wealth" which the law does not penalize. Consequently, absent any intent to commit a wrong, and having accounted for the source of the "undisclosed wealth," one cannot be adjudged guilty of the charge of Dishonesty; but at the most, of mere negligence for having failed to accomplish one's SALN properly and accurately.

The Court further discussed in *Daplas* the distinction between simple and gross negligence. 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. An act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or constitutes only an error of judgment and for no ulterior motives and/or purposes, is merely simple negligence.

Here, petitioner had consistently submitted untruthful SALNs since 2010, though he can only be punished for his untruthful SALNs

³ G.R. No. 214081, April 10, 2019.

for 2014 and 2015. Nonetheless, such untruthful SALNs resulted in unexplained wealth on his part. On this score, the Court of Appeals, quoting *verbatim* the OMB, observed:

As respondent himself admitted, except for the “caliber .45 para ordinance” pistol which he listed as acquired in 2009, none of the above-enumerated firearms has been declared in his SALNs for CYs 2011 to 2015. **The sheer (number) of the guns which for any public officer to overlook is hard to believe, not to mention that respondent’s non-declaration is consistently made.**

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Similarly, however, as respondent himself admitted, none of the said vehicles and businesses have been reported in his SALNs beginning 2013, such is not a faithful declaration of the subject 2010 model Hammer, as the latter was purchased in June 2010. Respondent, thus, should have started declaring the same in his SALN for 2010.

Respondent’s contention that he need not disclose the business as their values are small, or that the vehicles were anyway acquired thru a chattel mortgage, deserves scant consideration. **First, the law on SALN is clear that all assets of a public officer, including those of his or her spouse, must be declared. There is no mention that where the value of the property was insignificant or the mode of acquisition was by mortgage, the declarant has the option not to disclose them. Second, the fact remains that respondent obtained those properties by purchase, which implies the payment of money. Third, all the subject assets were acquired in a matter of five years and during his tenure as Mayor/public servant. Thus, to support respondent’s position would mean running contrary to and defeats the very purpose requiring the SALN.**

Furthermore, the Office notes that not all of the properties that respondent declared in his 2011 to 2015 SALNs, such as the agricultural land in Midtimbang, Maguindanao, had a per-item acquisition cost. **While he indicated a sum total under the subsection “Real Properties,” the cost of each of the specific properties listed therein were not disclosed, contrary to the detailed disclosure that R.A. No. 3019 requires. (Emphasis supplied)**

Dishonesty begins when an individual intentionally makes a false statement in any material fact, or practicing or attempting to practice any deception or fraud in order to secure his examination, registration, appointment or promotion. It is understood to imply the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or

betray. It is a malevolent act that puts serious doubt upon one's ability to perform his duties with the integrity and uprightness demanded of a public officer or employee. Under civil service rules, dishonesty is a grave offense, the penalty of which is dismissal from the service at the first infraction.⁴ Here, petitioner is guilty of dishonesty for his deliberate failure to submit truthful SALNs for 2014 and 2015.

Third. Petitioner is only guilty of simple negligence for failing to seek permission for his short trips abroad, on January 2, 2016 and August 28, 2016, from the Provincial Governor of Maguindanao. Section 96 of Republic Act No. 7160 relevantly reads:

SEC. 96. Permission to Leave Station. — (a) Provincial, city, municipal, and barangay appointive officials going on official travel shall apply and secure written permission from their respective local chief executives before departure. The application shall specify the reasons for such travel, and the permission shall be given or withheld based on considerations of public interest, financial capability of the local government unit concerned and urgency of the travel. Should the local chief executive concerned fail to act upon such application within four (4) working days from receipt thereof, it shall be deemed approved.

(b) Mayors of component cities and municipalities shall secure the permission of the governor concerned for any travel outside the province.

(c) Local government officials traveling abroad shall notify their respective sanggunian: Provided, That when the period of travel extends to more than three (3) months, during periods of emergency or crisis or when the travel involves the use of public funds, permission from the Office of the President shall be secured.

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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. An act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or purposes is merely simple negligence.⁵ Here, there is no showing that petitioner had any ulterior motive in not observing the rules on travel by public officials when he travelled abroad on January

⁴ *OMB v. Racho*, 656 Phil. 148, 163 (2011).

⁵ *Daplas v. DOF*, 808 Phil. 763, 774 (2017).

2, 2016 and August 28, 2016 without proper permission from the provincial governor. Thus, he is only guilty of simple neglect of duty.

Negligence is akin to simple neglect of duty, which is a less grave offense punishable with suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.⁶

In view of one (1) count of simple neglect of duty and one (1) count of dishonesty, petitioner should be meted the ultimate penalty of dismissal. Under the Civil Service Rules, if a government employee or official is found guilty of two (2) or more charges, the penalty to be imposed should be that corresponding to the most serious charge and the rest will be considered aggravating circumstances.⁷

WHEREFORE, the petition is **DENIED**. The assailed Decision dated November 21, 2018 and Resolution dated November 6, 2019 of the Court of Appeals in CA-G.R. SP No. 08830-MIN, are **AFFIRMED** with **MODIFICATION**. Petitioner Montasir Meling Sabal is found:

a) **GUILTY** of **DISHONESTY** for submitting untruthful Statements of Assets, Liabilities and Net Worth for the years 2014 and 2015; and

b) **GUILTY** of **SIMPLE NEGLECT OF DUTY** for his failure to seek permission from the Provincial Governor of Maguindanao for his travels abroad on January 2, 2016 and August 28, 2016.

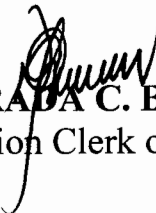
Consequently, petitioner Montasir Meling Sabal is meted the penalty of **DISMISSAL** with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

⁶ *OCA v. Sidro*, A.M. No. P-17-3655, August 20, 2019.

⁷ *Pasok v. Diaz*, 677 Phil. 520 (2011).

SO ORDERED.” J, Reyes, Jr., J. on leave.

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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