

MIRIAM DEFENSOR SANTIAGO, PETITIONER, VS. SANDIGANBAYAN, FRANCIS E. GARCHITORENA, JOSE S. BALAJADIA AND MINITA V. CHICO-NAZARIO, AS PRESIDING JUSTICE AND MEMBERS OF THE FIRST DI...*G.R. No. 128055. April 18, 2001*

Ponente: VITUG, J.

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The Court is called upon to review the act of the Sandiganbayan, and how far it can go, in ordering the preventive suspension of petitioner, Mme. Senator Miriam Defensor-Santiago, in connection with pending criminal cases filed against her for alleged violation of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act.

The instant case arose from complaints filed by a group of employees of the Commission of Immigration and Deportation (CID) against petitioner, then CID Commissioner, for alleged violation of the Anti-Graft and Corrupt Practices Act. The investigating panel, that took over the case from Investigator Gualberto dela Llana after having been constituted by the Deputy Ombudsman for Luzon upon petitioner's request, came up with a resolution which it referred, for approval, to the Office of the Special Prosecutor (OSP) and the Ombudsman. In his Memorandum, dated 26 April 1991, the Ombudsman directed the OSP to file the appropriate informations against petitioner. On 13 May 1991, OSP submitted to the Ombudsman the informations for clearance; approved, forthwith, three informations were filed on even date.

In Criminal Case No. 16698 filed before the Sandiganbayan, petitioner was indicted thusly:

"That on or about October 17, 1988, or sometime prior or subsequent thereto, in Manila, Philippines and within the jurisdiction of this Honorable Court, accused MIRIAM DEFENSOR-SANTIAGO, a public officer, being then the Commissioner of the Commission on Immigration and Deportation, with evident bad faith and manifest partiality in the exercise of her official functions, did then and there willfully, unlawfully and criminally approve the application for legalization of the stay of the following aliens: Jhamtani Shalini Narendra, Ting Siok Hun, Ching Suat Liong Ting, Cu Kui Pein Uy, Cu Kui Pwe Uy, Hong Shao Guan, Hong Xiao Yuan, Xu Li Xuan, Qui Ming Xia Ong, Wu Sui Xin Quiu, Wu Hong Guan Qui @ Betty Go, Wu Hong Ru Qui @ Mary Go Xu Yin Yin Kua, Hong Shao Hua Xu, Hong Shao Wei Xu, Lu Shing Qing, Lu Shi Tian, Lu Se Chong, Shi Qing Yu, Xu Angun @ Xu An Cin, Xu Pinting, Wang Xiu Jin, Cai Pian Pian, Cai Wen Xu, Cai Min Min, Cai Ping Ping, Choi Kin Kwok @ Bernardo Suarez, Yen Liang Ju @ Jeslyn Gan, Cai Yan Nan, Yen Ling Chien @ Christmayne Gan, So Chen Yueh-O, Cai Ya Rong, who arrived in the Philippines after January 1, 1984 in violation of Executive Order no. 324 dated April 13, 1988 which prohibits the legalization of said disqualified aliens knowing fully well that said aliens are disqualified, thereby giving unwarranted benefits to said aliens whose stay in the Philippines was unlawfully legalized by said accused."[1]

Two other criminal cases, one for violation of the provisions of Presidential Decree No. 46 and the other for libel, were filed with the Regional Trial Court of Manila, docketed, respectively, No. 91-94555 and no. 91-94897.

Pursuant to the information filed with the Sandiganbayan, Presiding Justice Francis E. Garchitorena issued an order for the arrest of petitioner, fixing the bail at Fifteen Thousand (P15,000.00) Pesos. Petitioner posted a cash bail without need for physical appearance as she was then recuperating from injuries sustained in a vehicular accident. The Sandiganbayan granted her provisional liberty until 05 June 1991 or until her physical condition would warrant her physical appearance in court. Upon manifestation by the Ombudsman, however, that petitioner was able to come unaided to his office on 20 May 1991, Sandiganbayan issued an order setting the arraignment on 27 May 1991.

Meanwhile, petitioner moved for the cancellation of her cash bond and prayed that she be allowed provisional liberty upon a recognizance.

On 24 May 1991, petitioner filed, concurrently, a Petition for Certiorari with Prohibition and Preliminary Injunction before the Court, docketed G.R. No. 99289-90, seeking to enjoin the Sandiganbayan from proceeding with Criminal Case No. 16698 and a motion before the Sandiganbayan to meanwhile defer her arraignment. The Court taking cognizance of the petition issued a temporary restraining order.

The Sandiganbayan, thus, informed, issued an order deferring petitioner's arraignment and the consideration of her motion to cancel the cash bond until further advice from the court.

On 13 January 1992, the Court rendered its decision dismissing the petition and lifting the temporary restraining order. The subsequent motion for reconsideration filed by petitioner proved unavailing.

On 06 July 1992, in the wake of media reports announcing petitioner's intention to accept a fellowship from the John F. Kennedy School of Government at Harvard University, the Sandiganbayan issued an order to enjoin petitioner from leaving the country.

On 15 October 1992, petitioner moved to inhibit Sandiganbayan Presiding Justice Garchitorena from the case and to defer her arraignment pending action on her motion to inhibit. On 09 November 1992, her motion was denied by the Sandiganbayan. The following day, she filed anew a Petition for Certiorari and Prohibition with urgent Prayer for Preliminary Injunction with the Court, docketed G.R. No. 99289-90. At the same time, petitioner filed a motion for bill of particulars with the Sandiganbayan asseverating that the names of the aliens whose applications she purportedly approved and thereby supposedly extended undue advantage were conspicuously omitted in the complaint.

The Court, in its resolution of 12 November 1992, directed the Sandiganbayan to reset petitioner's arraignment not later than five days from receipt of notice thereof.

On 07 December 1992, the OSP and the Ombudsman filed with the Sandiganbayan a motion to admit thirty-two amended informations. Petitioner moved for the dismissal of the 32 informations. The court, in its 11[th] March 1993 resolution, denied her motion to dismiss the said informations and directed her to post bail on the criminal cases, docketed Criminal Case No. 18371-18402, filed against her.

Unrelenting, petitioner, once again came to this Court via a Petition for Certiorari, docketed G.R. No. 109266, assailing the 03[rd] March 1993 resolution of the Sandiganbayan which resolved not to disqualify its Presiding Justice, as well as its 14[th] March 1993 resolution admitting the 32 Amended Informations, and seeking the nullification thereof.

Initially, the Court issued a temporary restraining order directing Presiding Justice Garchitorena to cease and desist from sitting in the case, as well as from enforcing the 11[th] March 1993 resolution ordering petitioner to post bail bonds for the 32 amended informations, and from proceeding with her arraignment on 12 April 1993

until the matter of his disqualification would have been resolved by the Court.

On 02 December 1993, the Court, in its decision in G.R. 109266, directed the OSP and Ombudsman to consolidate the 32 amended informations. Conformably therewith, all the 32 informations were consolidated into one information under Criminal Case No. 16698.

Petitioner, then filed with the Sandiganbayan a Motion to "Redetermine probable Cause" and to dismiss or quash said information. Pending the resolution of this incident, the prosecution filed on 31 July 1995 with the Sandiganbayan a motion to issue an order suspending petitioner.

On 03 August 1995, the Sandiganbayan resolved to allow the testimony of one Rodolfo Pedellaga (Pedellaga). The presentation was scheduled on 15 September 1995.

In the interim, the Sandiganbayan directed petitioner to file her opposition to the 31[st] July 1995 motion for the prosecution within fifteen (15) days from receipt thereof.

On 18 August 1995, petitioner submitted to the Sandiganbayan a motion for reconsideration of its 03[rd] August 1995 order which would allow the testimony of Pedellaga. The incident, later denied by the Sandiganbayan, was elevated to the Court via a Petition for Review on Certiorari, entitled "Miriam Defensor-Santiago vs. Sandiganbayan," docketed G.R. No. 123792.

On 22 August 1995, petitioner filed her opposition to the motion of the prosecution to suspend her. On 25 January 1996, the Sandiganbayan resolved:

"WHEREFORE, for all the foregoing, the Court hereby grants the motion under consideration and hereby suspends the accused Miriam Defensor-Santiago from her position as Senator of the Republic of the Philippines and from any other government position she may be holding at present or hereafter. Her suspension shall be for ninety (90) days only and shall take effect immediately upon notice.

"Let a copy of this Resolution be furnished to the Hon. Ernesto Maceda, Senate President, Senate of the Philippines, Executive House, Taft Ave., Manila, through the Hon. Secretary of the Senate, for the implementation of the suspension herein ordered. The Secretary of the Senate shall inform this court of the action taken thereon within five (5) days from receipt hereof.

"The said official shall likewise inform this Court of the actual date of implementation of the suspension order as well as the expiry of the ninetieth day thereof so that the same may be lifted at the time."[2]

Hence, the instant recourse. The petition assails the authority of the Sandiganbayan to decree a ninety-day preventive suspension of Mme. Miriam Defensor-Santiago, a Senator of the Republic of the Philippines, from any government position, and furnishing a copy thereof to the Senate of the Philippines for the implementation of the suspension order.

The authority of the Sandiganbayan to order the preventive suspension of an incumbent public official charged with violation of the provisions of Republic Act No. 3019 has both legal and jurisprudential support. Section 13 of the statute provides:

"SEC. 13. Suspension and loss of benefits. - any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against

him.

"In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to restitute the same to the Government. (As amended by BP Blg. 195, March 16, 1982)."

In the relatively recent case of *Segovia vs. Sandiganbayan*,^[3] the Court reiterated:

"The validity of Section 13, R.A. 3019, as amended --- treating of the suspension pendente lite of an accused public officer --- may no longer be put at issue, having been repeatedly upheld by this Court.

"xxx xxx xxx

"The provision of suspension pendente lite applies to all persons indicted upon a valid information under the Act, whether they be appointive or elective officials; or permanent or temporary employees, or pertaining to the career or non-career service."^[4]

It would appear, indeed, to be a ministerial duty of the court to issue an order of suspension upon determination of the validity of the information filed before it. Once the information is found to be sufficient in form and substance, the court is bound to issue an order of suspension as a matter of course, and there seems to be "no ifs and buts about it."^[5] Explaining the nature of the preventive suspension, the Court in the case of *Bayot vs. Sandiganbayan*^[6] observed:

"x x x It is not a penalty because it is not imposed as a result of judicial proceedings. In fact, if acquitted, the official concerned shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension."^[7]

In issuing the preventive suspension of petitioner, the Sandiganbayan merely adhered to the clear and unequivocal mandate of the law, as well as the jurisprudence in which the Court has, more than once, upheld Sandiganbayan's authority to decree the suspension of public officials and employees indicted before it.

Section 13 of Republic Act No. 3019 does not state that the public officer concerned must be suspended only in the office where he is alleged to have committed the acts with which he has been charged. Thus, it has been held that the use of the word "office" would indicate that it applies to any office which the officer charged may be holding, and not only the particular office under which he stands accused.^[8]

En passan, while the imposition of suspension is not automatic or self-operative as the validity of the information must be determined in a pre-suspension hearing, there is no hard and fast rule as to the conduct thereof. It has been said that-

"x x x No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should be given a fair and adequate opportunity to challenge the VALIDITY OF THE CRIMINAL PROCEEDINGS against him, e.g. that he has not been afforded the right of due preliminary investigation; that the acts for which he stands charged do not constitute a violation of the provisions of Republic Act 3019 or the bribery provisions of the revised Penal Code which would warrant his mandatory suspension from office under section 13 of the Act; or he may present a motion to quash the information on any of the grounds provided for in Rule 117 of the Rules of Court x x x."

"xxx xxx xxx

"Likewise, he is accorded the right to challenge the propriety of his prosecution on the ground that the acts for which he is charged do not constitute a violation of Rep. Act 3019, or of the provisions on bribery of the Revised Penal Code, and the right to present a motion to quash the information on any other grounds provided in Rule 117 of the Rules of Court.

"However, a challenge to the validity of the criminal proceedings on the ground that the acts for which the accused is charged do not constitute a violation of the provisions of Rep. Act 3019, or of the provisions on bribery of the revised Penal Code, should be treated only in the same manner as a challenge to the criminal proceeding by way of a motion to quash on the ground provided in Paragraph (a), section 2 of Rule 117 of the Rules of Court, i.e., that the facts charged do not constitute an offense. In other words, a resolution of the challenge to the validity of the criminal proceeding, on such ground, should be limited to an inquiry whether the facts alleged in the information, if hypothetically admitted, constitute the elements of an offense punishable under Rep. Act 3019 or the provisions on bribery of the Revised Penal Code." [9]

The law does not require that the guilt of the accused must be established in a pre-suspension proceeding before trial on the merits proceeds. Neither does it contemplate a proceeding to determine (1) the strength of the evidence of culpability against him, (2) the gravity of the offense charged, or (3) whether or not his continuance in office could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence before the court could have a valid basis in decreeing preventive suspension pending the trial of the case. All it secures to the accused is adequate opportunity to challenge the validity or regularity of the proceedings against him, such as, that he has not been afforded the right to due preliminary investigation, that the acts imputed to him do not constitute a specific crime warranting his mandatory suspension from office under Section 13 of Republic Act No. 3019, or that the information is subject to quashal on any of the grounds set out in Section 3, Rule 117, of the Revised Rules on Criminal procedure. [10]

The instant petition is not the first time that an incident relating to petitioner's case before the Sandiganbayan has been brought to this Court. In previous occasions, the Court has been called upon to resolve several other matters on the subject. Thus: (1) In *Santiago vs. Vasquez*, [11] petitioner sought to enjoin the Sandiganbayan from proceeding with Criminal case No. 16698 for violation of Republic Act No. 3019; (2) in *Santiago vs. Vasquez*, [12] petitioner sought the nullification of the hold departure order issued by the Sandiganbayan via a "Motion to Restrain the Sandiganbayan from Enforcing its Hold Departure Order with Prayer for Issuance of a Temporary Restraining Order and/or Preliminary Injunction, with Motion to set Pending Incident for Hearing; (3) in *Santiago vs. Garchitorena*, [13] petitioner sought the nullification of the resolution, dated 03 March 1993, in Criminal Case No. 16698 of the Sandiganbayan (First Division) and to declare Presiding Justice Garchitorena disqualified from acting in said criminal case, and the resolution, dated 14 March 1993, which deemed as "filed" the 32 amended informations against her; and (4) in *Miriam Defensor Santiago vs. Sandiganbayan*, [14] petitioner assailed the denial by the Sandiganbayan of her motion for her reconsideration from its 03[rd] August 1995 order allowing the testimony of Pedellaga. In one of these cases, [15] the Court declared:

"We note that petitioner had previously filed two petitions before us involving Criminal Case No. 16698 (G.R. Nos. 99289-99290; G.R. No. 107598). Petitioner has not explained why she failed to raise the issue of the delay in the preliminary investigation and the filing of the information against her in those petitions. A piece-meal presentation of issues, like the splitting of causes of action, is self-defeating.

"Petitioner next claims that the Amended informations did not charge any offense punishable under Section 3 (e) of R.A. No. 3019 because the official acts complained of therein were authorized under Executive Order No. 324 and that the Board of Commissioners of the Bureau of Investigation adopted the policy of approving applications for legalization of spouses and unmarried, minor children of "qualified aliens" even though they had arrived in the Philippines after December 31 1983. She concludes that the Sandiganbayan erred in not granting her motion to quash the informations (Rollo, pp. 25-31).

"In a motion to quash, the accused admits hypothetically the allegations of fact in the information (*People vs. Supnad*, 7 SCRA 603 [1963]). Therefore, petitioner admitted hypothetically in her motion that:

(1) She was a public officer;

(2) She approved the application for legalization of the stay of aliens, who arrived in the Philippines after January 1, 1984;

(3) Those aliens were disqualified;

(4) She was cognizant of such fact; and

(5) She acted in 'evident bad faith and manifest partiality in the execution of her official functions.'

"The foregoing allegations of fact constitute the elements of the offense defined in Section 3 (e) of R.A. No. 3019." [16]

The pronouncement, upholding the validity of the information filed against petitioner, behooved Sandiganbayan to discharge its mandated duty to forthwith issue the order of preventive suspension.

The order of suspension prescribed by Republic Act No. 3019 is distinct from the power of Congress to discipline its own ranks under the Constitution which provides that each-

"x x x house may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days." [17]

The suspension contemplated in the above constitutional provision is a punitive measure that is imposed upon determination by the Senate or the house of Representatives, as the case may be, upon an erring member. Thus, in its resolution in the case of Ceferino Paredes, Jr., vs. Sandiganbayan, et al., [18] the Court affirmed the order of suspension of Congressman Paredes by the Sandiganbayan, despite his protestations on the encroachment by the court on the prerogatives of congress. The Court ruled:

"x x x. Petitioner's invocation of Section 16 (3), Article VI of the Constitution - which deals with the power of each House of Congress inter alia to 'punish its Members for disorderly behavior,' and 'suspend or expel a Member' by a vote of two-thirds of all its Members subject to the qualification that the penalty of suspension, when imposed, should not exceed sixty days - is unavailing, as it appears to be quite distinct from the suspension spoken of in Section 13 of RA 3019, which is not a penalty but a preliminary, preventive measure, prescinding from the fact that the latter is not being imposed on petitioner for misbehavior as a Member of the House of Representatives."

The doctrine of separation of powers by itself may not be deemed to have effectively excluded members of Congress from Republic Act No. 3019 nor from its sanctions. The maxim simply recognizes each of the three co-equal and independent, albeit coordinate, branches of the government - the Legislative, the Executive and the Judiciary - has exclusive prerogatives and cognizance within its own sphere of influence and effectively prevents one branch from unduly intruding into the internal affairs of either branch.

Parenthetically, it might be well to elaborate a bit. Section 1, Article VIII, of the 1987 Constitution, empowers the Court to act not only in the settlement of "actual controversies involving rights which are legally demandable and enforceable," but also in the determination of "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. The provision allowing the Court to look into any possible grave abuse of discretion committed by any government instrumentality has evidently been couched in general terms in order to make it malleable to judicial interpretation in the light of any emerging milieu. In its normal concept, the term has been said to imply an arbitrary, despotic, capricious or whimsical exercise of judgment amounting to lack or excess of jurisdiction. When the question, however, pertains to an affair internal to either of Congress or the Executive, the Court subscribes to the view [19] that unless an infringement of any specific Constitutional proscription thereby inheres the Court should not deign

substitute its own judgment over that of any of the other two branches of government. It is an impairment or a clear disregard of a specific constitutional precept or provision that can unbolt the steel door for judicial intervention. If any part of the Constitution is not, or ceases to be, responsive to contemporary needs, it is the people, not the Court, who must promptly react in the manner prescribed by the Charter itself.

Republic Act No. 3019 does not exclude from its coverage the members of Congress and that, therefore, the Sandiganbayan did not err in thus decreeing the assailed preventive suspension order.

Attention might be called to the fact that Criminal Case No. 16698 has been decided by the First Division of the Sandiganbayan on 06 December 1999, acquitting herein petitioner. The Court, nevertheless, deems it appropriate to render this decision for future guidance on the significant issue raised by petitioner.

WHEREFORE, the instant petition for certiorari is DISMISSED. No costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, p. 96.

[2] Rollo, p. 20.

[3] 288 SCRA 328.

[4] At pp. 336-337.

[5] Libanan vs. Sandiganbayan, 163 SCRA 163.

[6] Bayot vs. Sandiganbayan, 128 SCRA 383.

[7] At p. 386.

[8] Bayot vs. Sandiganbayan, *supra*; Segovia vs. Sandiganbayan, *supra*.

[9] Luciano vs. Mariano, 40 SCRA 187; People vs. Albano, 163 SCRA 511, 517-519.

[10] Segovia vs. Sandiganbayan, *supra*; Resolution of the Supreme Court in A.M. No. 00-05-03-SC, dated 03 October 2000, which became effective on 01 December 2000.

[11] 205 SCRA 162.

[12] 217 SCRA 633.

[13] 228 SCRA 214.

[14] G.R. No. 123792.

[15] Santiago vs. Garchitorena, *Idem*.

[16] At pp. 221-222.

[17] Section 16(3), Article VI, 1987 Constitution.

[18] G.R. No. 118364, 08 August 1995.

[19] Somewhat made implicit in my understanding of *Arroyo vs. De Venecia*, 277 SCRA 268, 289.

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