

DINDO C. RIOS, PETITIONER, VS. THE SECOND DIVISION OF THE SANDIGANBAYAN, THE PEOPLE OF THE PHILIPPINES, THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, AND THE PROVINCIAL G...

G.R. No. 129913. September 26, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for certiorari to set aside the resolution of the Sandiganbayan, dated March 24, 1997, granting the motion of the Office of the Special Prosecutor (OSP) to suspend petitioner Dindo C. Rios pendente lite, and its resolution dated June 25, 1997 denying his Motion for Reconsideration.

On March 6, 1996, an information was filed against petitioner who is the incumbent Mayor of the Municipality of San Fernando, Romblon for alleged unauthorized disposition of confiscated lumber, in violation of Republic Act No. 3019, otherwise known as Anti-Graft and Corrupt Practices Act. The information alleged:

“That on or about May 16, 1994, in San Fernando, Romblon, and within the jurisdiction of this Honorable Court, the above named accused, a public officer, x x x while in the performance and taking advantage of his official functions, and with evident bad faith, did then and there willfully, unlawfully and criminally cause the disposition of confiscated, assorted and sawn tanguile lumber consisting of 1,319 pieces without proper authority therefor, thus, causing undue injury to the Government.”

Before his arraignment, petitioner filed a “Motion to Quash Information and Recall Warrant of Arrest,” dated August 4, 1996, on the ground that the information was invalid as there was no probable cause to hold him liable for violation of Section 3(e), R.A. No. 3019. [1]

On September 16, 1996, the OSP filed a “Motion to Suspend Accused (herein petitioner) Pendente Lite,” to which petitioner filed an “Opposition,” reiterating the same ground stated in his motion to quash.

The Sandiganbayan overruled the argument in its resolution of October 14, 1996. Thereupon, petitioner filed a verified petition with this Court which was docketed as G.R. No. 126771. Among the issues raised was the alleged invalidity of the information. The Court resolved to deny this petition on December 4, 1996 on the ground that the Sandiganbayan committed no grave abuse of discretion in rendering the questioned judgment.

When petitioner was arraigned on January 20, 1997, he entered a plea of “not guilty” no longer questioning the validity of the information against him.

On March 24, 1997, the Sandiganbayan granted the OSP’s motion to suspend petitioner in an order which provides in part:

“WHEREFORE, accused Dindo C. Rios is ordered suspended from his position as Mayor of the Municipality of San Fernando, Romblon and from any other public position he may be holding for a period of ninety (90)

days counted from receipt of this Resolution. The Honorable Secretary of the Department of Interior and Local Government, Quezon City, and the Provincial Governor of Romblon, Romblon are ordered furnished with copies of this Resolution so that they may implement the same and report on their actions thereon.

SO ORDERED.”

Petitioner filed a motion for reconsideration which was subsequently denied in a resolution dated June 25, 1997. Hence, this petition.

In support of his petition, petitioner posits the following arguments:

“I. THE SANDIGANBAYAN COMMITTED A GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THE FACTS CHARGED IN THE INFORMATION CONSTITUTE A VIOLATION OF REPUBLIC ACT 3019.

II. THE SANDIGANBAYAN COMMITTED A GRAVE ABUSE OF DISCRETION WHEN IT PROVIDED FOR SUSPENSION OF NINETY (90) DAYS IN CLEAR DISREGARD OF THE PROVISION OF THE LOCAL GOVERNMENT CODE.”

The first argument propounded by petitioner has already been passed upon by this Court when it held that the act of disposing of confiscated lumber without prior authority from DENR and the Sangguniang Bayan constituted a violation of Sec. 3(e) of R.A. 3019. [2] Therefore, there is probable cause to hold petitioner liable for such act, for which the information was validly filed. Although any further discussion of this issue would be unnecessary, the Sandiganbayan’s ruling is herein reiterated as a reminder to public officials of their crucial role in society and the trust lodged upon them by the people.

The act complained of in this case is “the disposition (by petitioner) of confiscated, assorted and sawn lumber consisting of 1,319 pieces without proper authority therefor, thus causing undue injury to the Government.”

Petitioner maintains that the mere fact that he acted beyond the scope of his authority by selling the confiscated lumber without the prior approval of the DENR through its Community Environment and Natural Resources Office and without a resolution from the Sangguniang Bayan, does not constitute a violation of Section 3(e) of R.A. No. 3019. What renders the disposition of lumber contrary to law is any resulting “undue injury” which, however, is absent in this case because the proceeds of the disposition went to the coffers of the Municipal Government.

The Sandiganbayan, however, asserted:

“First, any act or omission that is not in consonance with the prescribed norms of conduct inflicts injury to the Government, for the reason that it is a disturbance of law and order. This is more so when, as in this case, the alleged offender is the highest officer in the Municipal Government, because he sets a reprehensible example to his constituents.

Second, the assertion that no undue injury was caused because the proceeds of the disposition of confiscated lumber went to the Municipal Government gratuitously assumes that the price at which the lumber was disposed of was the reasonable market value thereof and that all the proceeds were paid to the local government. The assertion is further based on the wrong assumption that the lumber belonged to the municipality of which the accused was mayor. It was the National Government, as distinguished to (sic) local governments, that owned it, (Sec. 2(a), RA 3019) there being no evidence that the National Government had disposed of the lumber in any manner.” [3]

We cannot agree more with the Sandiganbayan. This Court would like to stress adherence to the doctrine that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve

them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. Public servants must bear in mind this constitutional mandate at all times to guide them in their actions during their entire tenure in the government service.[4] “The good of the service and the degree of morality which every official and employee in the public service must observe, if respect and confidence are to be maintained by the Government in the enforcement of the law, demand that no untoward conduct on his part, affecting morality, integrity and efficiency while holding office should be left without proper and commensurate sanction, all attendant circumstances taken into account.” [5]

The suspension pendente lite meted out by the Sandiganbayan is, without doubt, a proper and commensurate sanction against petitioner. Having ruled that the information filed against petitioner is valid, there can be no impediment to the application of Section 13 of R.A. No. 3019 which states, inter alia:

“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.”

It is settled jurisprudence that the aforequoted provision makes it mandatory for the Sandiganbayan to suspend any public officer who has been validly charged with a violation of R.A. No. 3019, Book II, Title 7 of the Revised Penal Code, or any offense involving fraud upon government or public funds or property. [6]

“The court trying a case has neither discretion nor duty to determine whether preventive suspension is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office.”[7] This is based on the presumption that unless the public officer is suspended, he may frustrate his prosecution or commit further acts of malfeasance or both.

On the other hand, we find merit in petitioner’s second assigned error. The Sandiganbayan erred in imposing a 90 day suspension upon petitioner for the single case filed against him. Under Section 63 (b) of the Local Government Code, “any single preventive suspension of local elective officials shall not extend beyond sixty (60) days.” [8]

WHEREFORE, the appealed decision of the Sandiganbayan is AFFIRMED subject to the MODIFICATION that the suspension be reduced to 60 days.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco and Panganiban, JJ., concur.

[1] SEC. 3 Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[2] Resolution of December 4, 1996 of the First Division of the Supreme Court in G.R. No. 126771 (Dindo Rios

v. Sandiganbayan and People of the Philippines).

[3] Rollo, p. 27.

[4] Lim-Arce v. Arce, 205 SCRA 21 (1992); City Mayor of Zamboanga v. CA, et al., 182 SCRA 785 (1990).

[5] Lim-Arce, supra; Soriano v. Quintos, 133 SCRA 215 (1984).

[6] Bunye v. Escareal, 226 SCRA 332 (1993); Gonzaga v. Sandiganbayan, 201 SCRA 417 (1991); People v Albano, 163 SCRA 511 (1988); Bolastig v. Sandiganbayan, 235 SCRA 103 (1994).

[7] Bolastig, supra.

[8] “SEC. 63 (b). Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence; Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.”

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