

DR. DEMETRIO BEROÑA, M.D., DR. ROMULO GAERLAN, M.D., AURIE VIADO-ADRIANO AND VIDA LABIOS, PETITIONERS, VS. SANDIGANBAYAN (FIFTH DIVISION) AND PEOPLE OF THE PHILIPPINES, RESPONDE...

G.R. No. 142456. July 27, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for certiorari and prohibition[1] seeks to set aside the Resolutions dated 8 September 1999 (“first Resolution”) and 4 February 2000 (“second Resolution”) issued by the Fifth Division[2] of the Sandiganbayan in Criminal Case No. 23521. The first Resolution granted the prosecution’s motion to suspend petitioners from office pendente lite, while the second Resolution denied reconsideration of the first Resolution.

The Antecedents

Petitioners were public officers and employees of the Provincial Health Office of Bangued, Abra (“Health Office”). Dr. Demetrio Beroña (“Dr. Beroña”) was Provincial Health Officer II, Dr. Romulo Gaerlan (“Dr. Gaerlan”) was Provincial Health Officer I, Aurie Viado-Adriano (“Viado-Adriano”) was resident auditor and Vida Labios (“Labios”) was an accountant. Petitioners were among the seven[3] charged for violation of Section 3(e) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act (“RA 3019”) before the Sandiganbayan in Criminal Case No. 23521. The accusatory portion of the Information reads in part:

x x x, committing the crime herein charged in relation to and taking advantage of their official functions, and through bad faith, conspiring and confederating with each other did then and there willfully, unlawfully and feloniously release to Alexander Siddayao, the total amount of P99,987.77 representing payment for the improvement of the Main Health Center in Malibcong, Abra when in fact, said Alexander Siddayao is not the labor contractor for the project, resulting to the non-payment of the salaries due the laborers who worked for the completion of the above-said project, causing them undue injury.

When arraigned, all the accused pleaded not guilty. On 30 April 1999, the prosecution filed an Amended Motion to Suspend the Accused Pendente Lite pursuant to Section 13 of RA 3019 (“Section 13”). The motion sought the suspension of petitioners from any public office which they may be occupying pending trial.

After the pre-suspension hearing held on 6 July 1999, the Sandiganbayan suspended the petitioners from office for 90 days. The Sandiganbayan held that preventive suspension is mandatory under Section 13 upon the court’s finding that a valid information charges the accused for violation of RA 3019 or Title 7, Book II of the Revised Penal Code or any offense involving public funds or property or fraud on government. The Sandiganbayan observed that a preliminary investigation was duly conducted before the filing of the Information, which the Sandiganbayan found sufficient in form and substance. The first Resolution ordered thus:

WHEREFORE, in view of the foregoing, accused Dr. Demetrio Beroña, Dr. Romulo Gaerlan, Aurie Viado, Esther Barbero and Vida Labios are hereby suspended as Provincial Health Officer II, Provincial Health Officer I, Resident Auditor, Cashier and Accountant, respectively, all of the Provincial Health Office of Bangued, Abra, and from any other public office which they may now or hereafter be holding for ninety (90) days from receipt of this resolution. Let a copy of this Resolution be furnished the Director, Department of Health, Region I, San Fernando, La Union for the implementation of this suspension. He is requested to please inform this Court of his action thereon within five (5) days from receipt hereof.

The suspension of the accused shall be automatically lifted upon the expiration of the ninety (90) day period from the implementation of this resolution (*Doromal vs. Sandiganbayan*, 177 SCRA 354; *Bayot vs. Sandiganbayan*, 128 SCRA 383).

SO ORDERED.[4]

In the second Resolution, the Sandiganbayan denied petitioners' motion for reconsideration.

Hence, this petition.

The Issue

Petitioners would now have this Court strike down the first and second Resolutions as supposedly rendered with grave abuse of discretion and in excess of jurisdiction. Petitioners contend that at the time of their preventive suspension they were no longer holding the positions they were occupying when the transactions, subject of the Information in Criminal Case No. 23521, happened.

During the pendency of the proceedings before the Sandiganbayan, Dr. Beroña resigned from the Health Office on 27 March 1995. He ran and won as the Municipal Mayor of Pilar, Abra. Dr. Gaerlan resigned from the Health Office and briefly engaged in private practice. He re-joined the government service, but no longer at the Health Office. Viado-Adriano became resident auditor of the Land Bank of the Philippines, Bangued, Abra. Labios obtained an appointment as accounting clerk in the Provincial Government of Abra.

The only issue posed for resolution is whether Section 13, which qualifies the public officer as incumbent, applies to petitioners since they are no longer occupying the positions they held when they were charged under RA 3019.

The Court's Ruling

The petition is bereft of merit.

This issue is neither new nor controversial. In a long line of cases,[5] we have rejected the same arguments petitioners now raise. As in previous cases resolving the same issue, the answer will not change.

The Information charged petitioners under Section 3(e) of RA 3019 for "causing 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." Section 13 of the same law reads:

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.

Section 13 is so clear and explicit that there is hardly room for any extended court rationalization of the law. Section 13 unequivocally mandates the suspension of a public official from office pending a criminal prosecution under RA 3019 or Title 7, Book II of the Revised Penal Code or for any offense involving public funds or property or fraud on government. This Court has repeatedly held that such preventive suspension is mandatory, and there are no ‘ifs’ and ‘buts’ about it.[6]

The purpose of a pre-suspension hearing is to determine the validity of the information. The court can then have a basis to either suspend the accused and proceed with the trial on the merits of the case, or withhold the suspension and dismiss the case, or correct any part of the proceedings that impairs its validity. That hearing is similar to a challenge to the validity of the information by way of a motion to quash.[7] In this case, the Sandiganbayan had determined the validity of the information in a pre-suspension hearing conducted for that purpose. Hence, petitioners’ suspension is unquestionably mandatory.

Suspension pendente lite applies to any office the officer might be currently holding

Petitioners contend that the Sandiganbayan has no legal basis to suspend them because they are presently occupying positions different from those under which the Information charged them. We have long settled this issue. In *Libanan v. Sandiganbayan*,[8] the petitioner similarly claimed that the order of suspension, based on his indictment as a member of the Sangguniang Bayan, could no longer attach to him, as he was already the duly elected and incumbent Vice-Governor of Eastern Samar. Rejecting his thesis, the Court explained:

In *Deloso v. Sandiganbayan*, this Court rejected a similar argument advanced by Governor Deloso who, at the time of issuance of the suspension order, was already occupying the office of governor and not the position of municipal mayor that he held previously when charged with having violated the Anti-Graft Law. Prior to Deloso, in *Bayot v. Sandiganbayan*, the suspension of then Cavite Mayor Bayot was also sustained even as he was charged for acts committed as government auditor of the Commission on Audit.

The Court reiterated this doctrine in *Segovia v. Sandiganbayan*[9] in this wise:

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. It applies to a Public High School Principal; a Municipal Mayor; a Governor; a Congressman; a Department of Science and Technology (DOST) non-career Project Manager; a Commissioner of the Presidential Commission on Good Government (PCGG). The term “office” in Section 13 of the law applies to any office which the officer might currently be holding and not necessarily the particular office in relation to which he is charged. (Emphasis supplied)

Suspension pendente lite prevents the accused from committing further acts of malfeasance while in office

Petitioners’ other contention that there is no longer any danger that petitioners would intimidate prosecution witnesses since two of the latter’s witnesses had already completed their testimonies in court is also untenable. Equally futile is their claim that Dr. Beroña’s suspension would deprive his constituents in the Municipality of Pilar the services and leadership of their highest elected municipal official to the greater detriment of public service.

These reasons cannot override the mandatory character of Section 13. The possibility that the accused would intimidate witnesses or hamper their prosecution is just one of the grounds for preventive suspension. Another is to prevent the accused from committing further acts of malfeasance while in office. Thus, we held in *Bolastig v. Sandiganbayan*[10] that -

x x x, the fact that petitioner's preventive suspension may deprive the people of Samar of the services of an official elected by them, at least temporarily, is not a sufficient basis for reducing what is otherwise a mandatory period prescribed by law. The vice governor, who has likewise been elected by them, will act as governor. Indeed, even the Constitution authorizes the suspension for not more than sixty days of members of Congress found guilty of disorderly behavior, thus rejecting the view expressed in one case that members of the legislature could not be suspended because in the case of suspension, unlike in the case of removal, the seat remains filled but the constituents are deprived of representation.

The period imposed by the Sandiganbayan is also in accord with our previous rulings limiting to 90 days the period of preventive suspension under Section 13.[11]

Section 13 reinforces the principle that a public office is a public trust. Its purpose is to prevent the accused public officer from hampering his prosecution by intimidating or influencing witnesses, tampering with documentary evidence, or committing further acts of malfeasance while in office. Petitioners' last feeble argument that the prosecution evidence is weak misses the point. They lose sight of the fact that preventive suspension is not a penalty. The accused public officers whose culpability remains to be proven are still entitled to the constitutional presumption of innocence.[12] The presence or absence of the elements of the crime is evidentiary in nature which the court will pass on after a full-blown trial on the merits.

WHEREFORE, we DISMISS the petition for lack of merit. We AFFIRM the Resolutions dated 8 September 1999 and 4 February 2000 issued by the Fifth Division of the Sandiganbayan in Criminal Case No. 23521.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

[2] Composed of Associate Justice Minita V. Chico-Nazario (now Associate Justice of this Court) as chairman with Associate Justices Anacleto D. Badoy, Jr. and Ma. Cristina Cortez-Estrada as members.

[3] The others were Carmelo Pre, Jaime Quiltaden and Esther Barbero. Original Records, Vol. 1, p. 1.

[4] Rollo, p. 21.

[5] *Juan v. People*, 379 Phil. 125 (2000); *Bolastig v. Sandiganbayan*, G.R. No. 110503, 4 August 1994, 235 SCRA 103; *Deloso v. Sandiganbayan*, G.R. Nos. 86899-903, 15 May 1989, 173 SCRA 409; *Bayot v. Sandiganbayan*, 213 Phil. 344 (1984).

[6] *Libanan v. Sandiganbayan*, G.R. No. 112386, 14 June 1994, 233 SCRA 163.

[7] *Socrates v. Sandiganbayan*, 324 Phil. 151 (1996).

[8] *Supra*, see note 6.

[9] 351 Phil. 569 (1998).

[10] *Supra*, see note 5.

[11] *Deloso v. Sandiganbayan*, see note 5.

[12] *Juan v. People*, see note 5.

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