

HERNANDO C. LAYNO, SR., PETITIONER, VS. THE HONORABLE SANDIGANBAYAN, THE PEOPLE OF THE PHILIPPINES, AND THE HONORABLE TANODBAYAN, RESPONDENTS.

G.R. No. 65848. May 24, 1985

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The validity of the mandatory provision of the Anti-Graft and Corrupt Practices Act,[1] suspending from office any public officer against whom any criminal prosecution under a valid information under such statute, is assailed in this certiorari and prohibition proceeding on the ground that it is violative of the constitutional presumption of innocence.[2] Petitioner Hernando C. Layno, Sr., is the duly elected Municipal Mayor of Lianga, Surigao del Sur. He was accused in an information filed by respondent Tanodbayan "of grave abuse of authority and evident bad faith in the exercise of his official and/or administrative duties" for "knowing fully well that he has no authority," he suspended and prohibited Vice-Mayor Bernardita Resus and three Sangguniang Bayan members[3] from participating and exercising their official functions" as such thus causing them injury "consisting of the salaries due to said officials not [being] received by them." [4]

The information against petitioner was filed by respondent Tanodbayan with respondent Sandiganbayan on May 17, 1983.[5] He was charged with violating paragraph (e), Section 3 of Republic Act No. 3019 as amended.[6] Petitioner was then arraigned on October 3, 1983, and he pleaded not guilty.[7] There was earlier submitted as far back as August, 1983 with the Sandiganbayan a Motion to Suspend Accused Pendente Lite.[8] Notwithstanding petitioner's opposition to such motion, respondent Sandiganbayan suspended him on October 26, 1983.[9] Accordingly, on October 3, 4 and 5, 1983, respondent Sandiganbayan conducted hearings and received evidence of the prosecution.[10] It was further alleged that respondent Sandiganbayan (Second Division) set the case for further hearings on January 11, 12, and 13, 1984.[11]

In the resolution issued by this Court on January 5, 1984, respondents were required to file an answer within ten days from notice. That was done. There was on the whole admission that the facts were as alleged. Respondents denied, however, that the law is as set forth in the petition. More specifically, it was asserted that the order of the Sandiganbayan "suspending petitioner pendente lite does not violate the latter's constitutional right to be presumed innocent." [12] Such a presumption "is a guaranty that no person shall be convicted of a crime except upon his guilt [being] established by proof beyond reasonable doubt." [13] Accordingly, such suspension "does not impair petitioner's foregoing constitutional right since the same is not a penalty or a criminal punishment, because it was not imposed by the court in a judgment of conviction or as a result of judicial proceeding." [14] Further: "The suspension is merely a precautionary or preventive measure issued even before the case is tried on its merits, purposely to ensure the fair and just trial of the case." [15]

The plea for restraining order was not granted by this Court. Thereafter the memoranda by both parties were submitted. Before a decision could be rendered on the merits, there was an urgent motion to lift the order of

suspension filed on February 13, 1985 stressing the need for a resolution of such question. This Court, after dealing on such motion as well as on the merits of the case, is of the view that this petition need not be resolved by a ruling on the validity of the provision on mandatory suspension. It suffices at this stage that this Court rules that there is an unconstitutional application of the assailed provision of the Anti-Graft and Corrupt Practices Act.

1. A succinct statement of the doctrine on unconstitutional application was set forth in *Pintacasi v. Court of Agrarian Relations*[16] in these words: "A law may be valid and yet susceptible to the charge of its being unconstitutionally applied." [17] This is one such case.

2. Petitioner is a duly elected municipal mayor of Lianga, Surigao del Sur. His term of office does not expire until 1986. Were it not for this information and the suspension decreed by the Sandiganbayan according to the Anti-Graft and Corrupt Practices Act, he would have been all this while in the full discharge of his functions as such municipal mayor. He was elected precisely to do so. As of October 26, 1983, he has been unable to. It is a basic assumption of the electoral process implicit in the right of suffrage that the people are entitled to the services of elective officials of their choice. For misfeasance or malfeasance, any of them could, of course, be proceeded against administratively or, as in this instance, criminally. In either case, his culpability must be established. Moreover, if there be a criminal action, he is entitled to the constitutional presumption of innocence. A preventive suspension may be justified. Its continuance, however, for an unreasonable length of time raises a due process question. For even if thereafter he were acquitted, in the meanwhile his right to hold office had been nullified. Clearly, there would be in such a case an injustice suffered by him. Nor is he the only victim. There is injustice inflicted likewise on the people of Lianga. They were deprived of the services of the man they had elected to serve as mayor. In that sense, to paraphrase Justice Cardozo, the protracted continuance of this preventive suspension had outrun the bounds of reason and resulted in sheer oppression. A denial of due process is thus quite manifest. It is to avoid such an unconstitutional application that the order of suspension should be lifted.

3. Nor is it solely the denial of procedural due process that is apparent. There is likewise an equal protection question. If the case against petitioner Layno were administrative in character the Local Government Code would be applicable. It is therein clearly provided that while preventive suspension is allowable for the causes therein enumerated, there is this emphatic limitation on the duration thereof: "In all cases, preventive suspension shall not extend beyond sixty days after the start of said suspension." [18] It may be recalled that the principle against indefinite suspension applies equally to national government officials. So it was held in the leading case of *Garcia v. Hon. Executive Secretary*. [19] According to the opinion of Justice Barrera: "To adopt the theory of respondents that an officer appointed by the President, facing administrative charges, can be preventively suspended indefinitely, would be to countenance a situation where the preventive suspension can, in effect, be the penalty itself without a finding of guilt after due hearing, contrary to the express mandate of the Constitution and the Civil Service law." [20] Further: "In the guise of a preventive suspension, his term of office could be shortened and he could in effect, be removed without a finding of a cause duly established after due hearing, in violation of the Constitution." [21] Clearly then, the policy of the law mandated by the Constitution frowns at a suspension of indefinite duration. In this particular case, the mere fact that petitioner is facing a charge under the Anti-Graft and Corrupt Practices Act does not justify a different rule of law. To do so would be to negate the safeguard of the equal protection guarantee.

4. Hence the conclusion reached by the Court as to the unconstitutional application of the mandatory suspension as applied to petitioner in accordance with the circumstances of this case.

WHEREFORE, this certiorari petition is granted and the preventive suspension imposed on petitioner Hernando C. Layno, Sr. is set aside, thus enabling him to assume once again the functions of municipal mayor of Lianga, Surigao del Sur, without prejudice to the continuance of the trial of the pending case against him in the

Sandiganbayan. This decision is immediately executory. No costs.

Teehankee, Makasiar, Aquino, Abad Santos, Melencio-Herrera, Escolin, Relova, Gutierrez, Jr., De La Fuente, and Alampay, JJ., concur.

Cuevas, J., did not take part.

Concepcion, Jr., and Plana, JJ., are on leave.

[1] Republic Act No. 3019 (1960). Its Section 13 reads as follows: "Suspension and loss of benefits. — Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery 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."

[2] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

[3] The three Sangguniang Bayan members are Atty. Paquito Arjona, Sr., Bienvenido Tamayo, and Federico S. Moreno.

[4] Petition, par. 4.

[5] Ibid.

[6] Ibid, Section 3(e) of Republic Act No. 3019 reads as follows: "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: (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 corporation charged with the grant of licenses or permits or other concessions."

[7] Ibid, par. 5.

[8] Ibid, par. 6.

[9] Ibid.

[10] Ibid, par. 7.

[11] Ibid.

[12] Answer, Special and Affirmative Defenses, par. 7.

[13] Ibid.

[14] Ibid.

[15] Ibid.

[16] L-23704, July 28, 1972, 46 SCRA 20.

[17] Ibid, 23. Cf. *Switzer v. Municipality of Cebu*, 20 Phil. 111 (1911); *United States v. Pompeya*, 31 Phil. 245

(1915); *Bestida v. City Council of Baguio*, 53 Phil. 553 (1929); *People v. Cruz*, 54 Phil. 24 (1929); *Primicias v. Fugoso*, 80 Phil. 71 (1948); *Manila Race Horse Trainers v. De la Fuente*, 88 Phil. 60 (1951); *Manila Lighter Trans. v. Mun. Board*, 98 Phil. 872 (1956); *American Bible Society v. City of Manila*, 101 Phil. 286 (1957); *Ah Nam v. City of Manila*, L-15502, 109 Phil. 808 (1960); *Pampanga Bus Co. v. Mun. of Tarlac*, L-15759, Dec. 30, 1961, 3 SCRA 816; *People v. Soria*, L-18982, Jan. 31, 1963, 7 SCRA 242; *De Leon v. Mun. of Calumpit, Bulacan*, L-26906 & L-26907, Nov. 28, 1969, 30 SCRA 531.

[18] *Batas Pambansa Blg. 337*, Section 63 (2), last sentence. The first sentence reads as follows: "Preventive suspension may be imposed at any time after the issues are joined, when there is reasonable ground to believe that the respondent has committed the act or acts complained of, when the evidence of culpability is strong, when the gravity of the offense so warrants, or when the continuance in office of the respondent influence the witnesses or pose a threat to the safety and integrity of the records and other evidence."

[19] 116 Phil. 348 (1962).

[20] *Ibid*, 351-352.

[21] *Ibid*, 352.

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