

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. SANDIGANBAYAN (SPECIAL DIVISION), JOSEPH EJERCITO ESTRADA, JOSE “JINGGOY” ESTRADA AND ATTY. EDWARD SERAPIO, RESPONDENTS.

G.R. Nos. 158780-82. October 12, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On March 24, 2003, public respondent Special Division of the Sandiganbayan denied petitioner’s Motion for Three Days Hearing Per Week whereby the Office of the Special Prosecutor sought to hasten the trial before said court of Criminal Cases Nos. 26558, 26565, and 26905, entitled “People of the Philippines v. Joseph Ejercito Estrada, et al.” Public respondent also de-nied petitioner’s motion for reconsideration. Hence, petitioner through the Office of the Special Prosecutor now comes to this Court in this petition for certiorari and mandamus to assail the denial of its petition and to compel public respondent to conduct three hearings of the cited cases each week.

Originally, public respondent conducted trial hearings twice a week, from 9:00 a.m. to 12:00 noon.[1] Later, on February 26, 2002, public respondent issued a Resolution modifying this six-hours-per-week schedule. Public respondent ordered that starting March 18, 2002, the cases would be heard thrice a week, every Mondays, Wednesdays and Fridays, from 9:00 a.m. to 12:00 noon.[2]

Although this schedule could have expedited the proceedings, it was never implemented. Shortly after the order was issued, private respondents former President Joseph Estrada and Jose “Jinggoy” Estrada dismissed their counsel de parte. Counsel de oficio had to be appointed and trial did not resume until April 17, 2002.[3]

Determined to expedite the prosecution of the cases, the Office of the Special Prosecutor started insisting on additional hearing days. The newly-appointed counsel de oficio, however, needed time to study the cases so the Office of the Special Prosecutor opted instead to agree to private respondents’ proposition that hearings be extended to five hours a day. The parties agreed that starting May 8, 2002, hearings shall be from 8:00 a.m. to 1:00 p.m. twice a week or for a total of ten hours per week. Criminal Case No. 26558, for Plunder, and Criminal Case No. 26565, for Illegal Use of Alias, would be heard every Monday while Criminal Case No. 26905, for Perjury, was to be heard every Wednesday. On April 22, 2002, public respondent issued an Order adopting the agreement as new trial schedule. Thereafter, this schedule was consistently followed starting May 8, 2002.

When the longer hearings still did not result in expedited proceedings, the Office of the Special Prosecutor filed on March 21, 2003, the abovementioned Motion for Three Days Hearing Per Week.[4] The Office of the Special Prosecutor asked public respondent to implement the schedule provided in the February 26, 2002, Resolution.

On March 24, 2003, public respondent denied the motion.[5]

The Office of the Special Prosecutor moved for reconsideration of the denial,[6] citing this Court’s ruling in A.M. No. 01-12-01-SC and A.M. No. SB-02-10-J that “[t]he setting of the hearing of the plunder case three times a

week is in order, not only because the case is of national concern, but more importantly, because the accused are presently detained.”[7]

On May 13, 2003, this motion for reconsideration was likewise denied.[8] Hence, this petition.

The Office of the Special Prosecutor relies on the following grounds:

Public respondent Sandiganbayan clearly acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the questioned Order dated March 24, 2003 and Resolution dated May [13], 2003 in Criminal Cases Nos. 26558, 26565, and 26905, considering that:

- The Honorable Court, in its Decision dated January 16, 2003 in A.M. No. 01-12-01-SC and A.M. No. SB-02-10-J has already mandated that holding of three-day-per-week hearings in the Plunder case.
- The Honorable Court, in its earlier Resolution dated January 21, 2002 in A.M. No. 02-1-07-SC entitled “Re: Request of Accused Through Counsel for Creation of a Special Division to Try the Plunder Case (SB Crim. Case No. 26558 and related cases)” has previously mandated the speedy trial of the Plunder and related cases and has further mandated that said cases be heard, tried, and decided with dispatch.
- Public respondent Sandiganbayan, in issuing the questioned Order dated March 24, 2003 and Resolution dated May [13], 2003, has not complied with the clear mandates issued by the Honorable Court to hold three-day-per-week hearings in the Plunder and related cases and to hear, try and decide with dispatch said cases.
- The law mandates continuous trial especially in detention cases.
- National interest requires the speedy resolution of the Plunder case.
- Public respondent Sandiganbayan’s questioned Order of March 24, 2003 and Resolution dated May [13], 2002 would add to the undue delay caused by private respondent Estradas in Plunder and related cases.

Essentially, for our resolution is the question, whether public respondent Sandiganbayan, Special Division, committed grave abuse of discretion in ordering two trial days per week instead of three.

The Office of the Special Prosecutor argues that this Court has mandated in A.M. No. 01-12-01-SC and A.M. No. SB-02-10-J that Criminal Case No. 26558, for Plunder, be heard three times a week. The Office of the Special Prosecutor likewise stresses that in A.M. No. 02-1-07-SC, this Court has directed public respondent “to hear, try and decide with dispatch” the Plunder and all related cases against former President Estrada and his co-accused. Considering that the consolidation of Criminal Case No. 26905, for Perjury, and Criminal Case No. 26565, for Illegal Use of Alias, encroached into the hearing days for the Plunder case, public respondent should not have refused to order more hearings days per week. That public respondent refused to order more hearings per week was grave abuse of discretion, according to the Office of the Special Prosecutor.[9]

The Office of the Special Prosecutor likewise laments public respondent’s failure to consider that counsels for private respondents had been employing every bit of dilatory technique they could imagine.[10]

The petition is devoid of merit.

“Grave abuse of discretion,” required as the sole ground for petitions for certiorari under Rule 65 of the Rules of Court, has a de-fined meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.[11]

For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be

patent and gross.[12] Grave abuse of discretion cannot be made gratuitously, and the Office of the Special Prosecutor does a disservice to the fair and prompt administration of justice when that Office fails to substantiate its charge.

The excerpts of this Court's decision in A.M. No. 01-12-01-SC and A.M. No. SB-02-10-J -- on which the Office of the Special Prosecutor relies -- cannot support its contentions. The issue discussed in the cited portion of A.M. No. SB-02-10-J was limited to whether Justices Anacleto D. Badoy and Teresita Leonardo-De Castro were administratively liable for misconduct for setting the hearing of the plunder case three times a week, at one o'clock in the afternoon, without prior consultation with the defense counsel.

On that limited issue, this Court ruled as follows:

The setting of the hearing of the plunder case three times a week is in order, not only because the case is of national concern, but more importantly, because the accused are presently detained. Contrary to complainants' assertions, the continuous trial is in accordance with the mandate of the law. This Court, in Administrative Circular No. 3-90 dated January 31, 1990, ordered all trial courts to adopt the mandatory continuous trial system in accordance with Administrative Circular No. 4 dated September 22, 1988 and Circular No. 1-89 dated January 19, 1989. It was adopted precisely to minimize delay in the processing of cases. This delay was attributed to the common practice of piecemeal trial wherein cases are set for trial one day at a time and thereafter the hearing is postponed to another date or dates until all the parties have finished their presentation of evidence. Section 2 of Rule 119 of the Revised Rules on Criminal Procedure provides:

SEC. 2 Continuous trial until terminated; postponements.—Trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause.

The court shall, after consultations with the prosecutor and defense counsel, set the case for continuous trial on weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Supreme Court.

Corollarily, the "consultations" referred to in the foregoing provisions does not necessarily mean that the court has to secure first from the prosecution and defense their approval before it can set the date of hearing. To rule otherwise is to subject our trial system to the control of the parties and their counsel.

Complainants also assail respondents' act of setting the hearing at one o'clock in the afternoon. Again, there is nothing irregular in it. The schedule of hearing is regarded as a matter necessarily at the discretion of the trial judge. As a matter of fact, a court may even hold night sessions, and a court of review will not interfere unless it clearly appears that there has been an abuse of the power of the judge and that injustice has been done. This is because the good of the service demands more toil and less idleness, and the limitations imposed by law are aimed to cut indolence and not the other way around.[13]

In so declaring the thrice-a-week schedule proper, this Court did not lay down an inexorable trial schedule for public respondent to follow under all circumstances. In fact, contrary to the contentions of the Office of the Special Prosecutor, nowhere in said decision was it implied that the Court had fixed for public respondent the number of hearing days to three per week. The question of how many trial days per week should be set was not before the Court, and the Court clearly did not make any pronouncement on that question.

Even if taken in the light of this Court's directive to public respondent "to hear, try and decide with dispatch" the cases against private respondents, the decision cannot be given the strained interpretation the Office of the Special Prosecutor gives it. The directive did not remove from public respondent the discretion to schedule trials in such number and at such times as may be proper. Notably, in the same Resolution[14] containing the directive, this Court granted public respondent the power to promulgate its own rules to emphasize public respondent's inherent

power to control the trial of the cases before it.

Likewise it does not appear that in setting the cases to be heard twice a week, public respondent violated Section 2, Rule 119 of the Rules of Court,[15] which sets the limits to the discretion granted to trial courts on the matter of trial dates. The requirement of continuous trial is satisfied if trial continues from day to day, is held on a weekly or other short-term trial calendar, and, except as otherwise authorized by this Court, is completed within 180 days from the first day of trial.

The Court notes that the trial schedule under the Order of April 22, 2002, allots a total of ten hours per week, while the Resolution of February 26, 2002, which the Office of the Special Prosecutor insists on, only allots a total of nine hours. The assailed trial schedule was adopted with the express consent of the Office of the Special Prosecutor. The Court cannot see how the assailed Order may cause material injury to petitioner's cause throughout subsequent proceedings. Nor can the Court agree that the assailed Order can constitute an evasion on public respondent's part, or refusal to perform its positive duty enjoined by law. Denial of the Motion for Three Days Hearing Per Week, of itself, is not proof that public respondent exercised its power arbitrarily or despotically by reason of passion, prejudice or personal hostility.

The determination of how many hearing days shall be devoted to trial rests within the sound discretion of the trial court. There is no justifiable reason to interfere with a trial court's scheduling of trial dates unless it clearly appears that the judge abused its power and that injustice has been done.[16] Having failed to show that public respondent has been guilty of grave abuse of discretion or that injustice would result from the adoption of a schedule of ten hours per week, the writ of certiorari sought by the Office of the Special Prosecutor cannot be granted.

The writ of mandamus likewise cannot issue. The Office of the Special Prosecutor has not sufficiently shown that public respondent has the imperative duty to conduct three hearings per week. Mandamus is employed to compel the performance, when refused, of a ministerial duty.[17] It does not lie to control or review the exercise of discretion.[18] It is unavailable to direct the exercise of judgment or discretion in a particular way or the retraction or reversal of an action already taken in the exercise of either. Of course, this rule admits of exceptions as when there is grave abuse of discretion,[19] manifest injustice[20] or palpable excess of authority.[21] But, as discussed above, none has been shown thus far in this case. Worth stressing, the Office of the Special Prosecutor has not shown how the assailed Order of public respondent can constitute an evasion or refusal to perform a positive duty enjoined by law.

WHEREFORE, the instant petition for certiorari and mandamus is DISMISSED for lack of merit. The assailed Order dated March 24, 2003, and the Resolution dated May 13, 2003, of the public respondent Sandiganbayan, Special Division, are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, and Tinga, JJ., concur.

Carpio, J., no part.

Carpio-Morales, Callejo, Sr., Azcuna, and Chico-Nazario, JJ., on leave.

[1] Rollo, pp. 27, 64, 165.

[2] Id. at 11.

[3] Id. at 124-126.

[4] Id. at 48-53.

[5] Id. at 54.

[6] Id. at 56-63.

[7] In the Matter of the Alleged Improper Conduct of Sandiganbayan Associate Justice Anacleto D. Badoy, Jr., A.M. No. 01-12-01-SC & A.M. No. SB-02-10-J, 16 January 2003, 395 SCRA 231, 247.

[8] Rollo, p. 64.

[9] Id. at 19, 21, 132, 134.

[10] Id. at 14.

[11] Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, 25 August 2003, 409 SCRA 455, 481.

[12] 246 Corporation v. Daway, G.R. No. 157216, 20 November 2003, p. 9.

[13] Supra, note 7 at 247-248.

[14] Re: Request of Accused Through Counsel for Creation of a Special Division to Try the Plunder Case (SB Criminal Case No. 26558 and Related Cases), Adm. Mat. No. 02-1-07-SC, 21 January 2002, 374 SCRA 125, 129.

[15] SEC. 2. Continuous trial until terminated; postponements.—Trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause.

The court shall, after consultation with the prosecutor and defense counsel, set the case for continuous trial on a weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Supreme Court.

The time limitations provided under this section and the preceding section shall not apply where special laws or circulars of the Supreme Court provide for a shorter period of trial.

[16] Supra, note 7 at 248.

[17] Tangonan v. Paño, No. L-45157, 27 June 1985, 137 SCRA 245, 254.

[18] Sy Ha v. Galang, No. L-18513, 27 April 1963, 7 SCRA 797, 803.

[19] Wright de Diokno v. City of Manila, No. 24433, 31 December 1925, 48 Phil. 572, 578.

[20] Blanco v. Board of Medical Examiners, No. 22911, 23 September 1924, 46 Phil. 190, 192-193.

[21] Reyes v. Topacio, No. 19650, 19 December 1922, 44 Phil. 207, 211-212; Angchangco, Jr. v. Ombudsman, G.R. No. 122728, 13 February 1997, 268 SCRA 301, 306.

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