

## SECOND DIVISION

[ G.R. No. 173523, February 19, 2014 ]

**LUCENA D. DEMAALA, PETITIONER, VS. SANDIGANBAYAN  
(THIRD DIVISION) AND OMBUDSMAN, RESPONDENTS.**

### DECISION

**DEL CASTILLO, J.:**

Where a party was afforded the opportunity to participate in the proceedings, yet he failed to do so, he cannot be allowed later on to claim that he was deprived of his day in court.

This Petition for *Certiorari* With Urgent Motion For Preliminary Injunction And Prayer For Temporary Restraining Order<sup>[1]</sup> assails the May 23, 2006 Resolution<sup>[2]</sup> of the *Sandiganbayan*, Third Division, in Criminal Case Nos. 27208, 27210, 27212, 27214, 27216-27219, and 27223-27228, which denied petitioner's Motion for Reconsideration of the February 9, 2006 Resolution<sup>[3]</sup> ordering her suspension *pendente lite* as Mayor of Narra, Palawan

#### ***Factual Antecedents***

Petitioner Lucena D. Demaala is the Municipal Mayor of Narra, Palawan, and is the accused in Criminal Case Nos. 27208, 27210, 27212, 27214, 27216-27219, and 27223-27228 for violations of Section 3(h) of Republic Act No. 3019<sup>[4]</sup> (RA 3019), which cases are pending before the *Sandiganbayan*.

On January 9, 2006, the Office of the Special Prosecutor filed before the *Sandiganbayan* a Motion to Suspend the Accused Pursuant to Section 13, RA 3019<sup>[5]</sup> arguing that under Section 13 of RA 3019,<sup>[6]</sup> petitioner's suspension from office was mandatory. Petitioner opposed<sup>[7]</sup> the motion claiming that there is no proof that the evidence against her was strong; that her continuance in office does not prejudice the cases against her nor pose a threat to the safety and integrity of the evidence and records in her office; and that her re-election to office justifies the denial of suspension.

#### ***Ruling of the Sandiganbayan***

On February 9, 2006, the *Sandiganbayan* issued a Resolution granting the motion to suspend, thus:

WHEREFORE, PREMISES CONSIDERED, the Motion of the Prosecution is hereby GRANTED. As prayed for, this Court hereby ORDERS the suspension *pendente lite* of herein accused, Lucena Diaz Demaala, from her present position as Municipal Mayor of Narra, Palawan, and from any other public position he [sic] may now be holding. His [sic] suspension

from office shall be for a period of ninety (90) days only, to take effect upon the finality of this Resolution.

Let the Honorable Secretary of the Department of Interior and Local Government, and the Provincial Governor of Palawan be furnished copies of this Resolution.

Once this Resolution shall have become final and executory, the Honorable Secretary of the Department of Interior and Local Government shall be informed accordingly for the implementation of the suspension of herein accused.

Thereafter, the Court shall be informed of the actual date of implementation of the suspension of the accused.

SO ORDERED.<sup>[8]</sup>

The *Sandiganbayan* held that preventive suspension was proper to prevent petitioner from committing further acts of malfeasance while in office. It stated further that petitioner's re-election to office does not necessarily prevent her suspension, citing this Court's ruling in *Oliveros v. Judge Villaluz*<sup>[9]</sup> that pending prosecutions for violations of RA 3019 committed by an elective official during one term may be the basis for his suspension in a subsequent term should he be re-elected to the same position or office. The court added that by her arraignment, petitioner is deemed to have recognized the validity of the Informations against her; thus, the order of suspension should issue as a matter of course.

On March 23, 2006, petitioner filed her Motion for Reconsideration.<sup>[10]</sup> She argued that the motion to suspend should have been filed earlier and not when the prosecution is about to conclude the presentation of its evidence; that the prosecution evidence indicates that petitioner's acts are not covered by Section 3(h) of RA 3019, and thus not punishable under said law; that the evidence failed to show that petitioner was committing further acts of malfeasance in office; and that suspension – while mandatory – is not necessarily automatic. Petitioner scheduled the hearing of her Motion for Reconsideration on April 26, 2006, thus:

#### NOTICE OF HEARING

To: Pros. Manuel T. Soriano, Jr.  
Office of the Special Prosecutor  
*Sandiganbayan* Bldg.  
Commonwealth Avenue  
Quezon City

#### GREETINGS:

Please take notice that on Wednesday, April 26, 2006 at 1:30 o'clock P.M. or as soon as [sic] thereafter as counsels may be heard, the undersigned will submit the foregoing Motion for the consideration and approval of the Honorable Court.

(signed)  
ZOILO C. CRUZAT<sup>[11]</sup>

The Ombudsman (prosecution) opposed<sup>[12]</sup> petitioner's Motion for Reconsideration.

On April 19, 2006, the prosecution filed a Manifestation with Motion to Reset the Trial Scheduled on April 26 and 27, 2006.<sup>[13]</sup> It sought to reset the scheduled April 26 and 27, 2006 hearing for the continuation of the presentation of the prosecution's evidence to a later date. The manifestation and motion to reset trial was scheduled for hearing on April 21, 2006. It states, in part, that –

**Per the January 19, 2006 Order of the Honorable Court, trial of these cases will continue on April 26 and 27, 2006, both at 1:30 in the afternoon.**

x x x x

In view of the foregoing and in order not to make the government unnecessarily pay for the expenses of the intended witnesses who were in Palawan, the prosecution did not issue a subpoena to its next witnesses anymore.

Unfortunately, to date, the parties are yet to meet and discuss matters that would be included in the joint stipulations, as the two (2) scheduled meetings at the Office of the Special Prosecutor between the prosecution and the defense did not materialize. Nevertheless, the accused has not filed any manifestation to inform the Honorable Court that the accused is no longer willing to enter into stipulations. Hence, there is a possibility that the parties will eventually come up with a joint stipulation of facts.  
<sup>[14]</sup> (Emphasis supplied)

On April 21, 2006, the *Sandiganbayan* issued an Order<sup>[15]</sup> granting the prosecution's motion to reset trial and scheduled the continuation thereof on August 2 and 3, 2006. The Order reads, as follows:

In view of the Motion to Reset the Trial Scheduled on April 26 and 27, 2006 filed by the Prosecution and finding the same to be meritorious, the motion is hereby granted. Thus, trial on April 26 and 27, 2006 is cancelled and reset on August 2 and 3, 2006, both at 1:30 in the afternoon.

Notify the parties and counsels accordingly.

SO ORDERED.<sup>[16]</sup>

On May 23, 2006, the *Sandiganbayan* issued the assailed Resolution denying petitioner's March 23, 2006 Motion for Reconsideration, thus:

WHEREFORE, PREMISES CONSIDERED, the instant Motion for Reconsideration filed by herein accused Mayor Lucena Diaz Demaala, is hereby DENIED for lack of merit. Our ruling in our Resolution of February 9, 2006 is MAINTAINED.

SO ORDERED.<sup>[17]</sup>

In denying the motion, the *Sandiganbayan* held that the grounds relied upon and arguments raised therein were mere reiterations of those contained in petitioner's Opposition to the Motion to Suspend the Accused; that contrary to petitioner's submission that the motion to suspend should have been filed earlier and not when the prosecution is about to conclude the presentation of its evidence, the suspension of an accused public officer is allowed so long as his case remains pending with the court; that the issue of whether petitioner's acts constitute violations of RA 3019 is better threshed out during trial; and that while it is not shown that petitioner was committing further acts of malfeasance while in office, the presumption remains that unless she is suspended, she might intimidate the witnesses, frustrate prosecution, or further commit acts of malfeasance.<sup>[18]</sup>

Feeling aggrieved, petitioner filed the instant Petition.

On August 9, 2006, the Court issued a *Status Quo* Order<sup>[19]</sup> enjoining the implementation of the *Sandiganbayan's* February 9, 2006 Resolution.

### **Issue**

Petitioner claims that she was denied due process when the *Sandiganbayan* issued its May 23, 2006 Resolution denying her Motion for Reconsideration even before the same could be heard on the scheduled August 2 and 3, 2006 hearings.

### ***Petitioner's Arguments***

The Petition is premised on the argument that petitioner's Motion for Reconsideration – of the February 9, 2006 Resolution ordering her suspension from office – was originally set for hearing on April 26, 2006, but upon motion by the prosecution, the same was reset to August 2 and 3, 2006; nonetheless, before the said date could arrive, or on May 23, 2006, the *Sandiganbayan* resolved to deny her Motion for Reconsideration. Hence, she was deprived of the opportunity to be heard on her Motion for Reconsideration on the appointed dates – August 2 and 3, 2006, thus rendering the court's May 23, 2006 Resolution void for having been issued with grave abuse of discretion.

In her Reply,<sup>[20]</sup> petitioner adds that her counsel intentionally set the hearing of her Motion for Reconsideration on April 26 and 27, 2006 in order to coincide with the main trial of the criminal cases; that since the court rescheduled the April 26 and 27 hearings, she no longer bothered to go to court on April 26, 2006 as "she had no business to be there". Petitioner further claims that she did not file any pleading seeking to reset the hearing of her Motion for Reconsideration because the same had already been scheduled for hearing on August 2 and 3, 2006 at the initiative of the prosecution.

Petitioner now prays that the February 9 and May 23, 2006 Resolutions of the *Sandiganbayan* be set aside, and that injunctive relief be granted to enjoin her suspension from office.