

EN BANC

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

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

R E S O L U T I O N

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 denied 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 officio* 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 officio*, 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:

- A. 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.
- B. 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*.
- C. 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.
- D. The law mandates continuous trial especially in detention cases.
- E. National interest requires the speedy resolution of the Plunder case.
- F. 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 defined 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