

## EN BANC

[ G.R. No. 159486-88, November 25, 2003 ]

**PRESIDENT JOSEPH EJERCITO ESTRADA, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN [SPECIAL DIVISION], HON. MINITA CHICO-NAZARIO, HON. EDILBERTO SANDOVAL, HON. TERESITA LEONARDO-DE CASTRO, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### RESOLUTION

**PER CURIAM:**

On 23 September 2003, this Court issued its resolution in the above-numbered case; it read:

"The case for consideration has been brought to this Court *via* a Petition for *Certiorari* under Rule 65 of the Rules of Court filed by Joseph Ejercito Estrada, acting through his counsel Attorney Alan F. Pagua, against the Sandiganbayan, et al. The Petition prays -

- "1. That Chief Justice Davide and the rest of the members of the Honorable Court disqualify themselves from hearing and deciding this petition;
- "2. That the assailed resolutions of the Sandiganbayan be vacated and set aside; and
- "3. That Criminal Cases No. 26558, No. 26565 and No. 26905 pending before the Sandiganbayan be dismissed for lack of jurisdiction.

"Attorney Alan F. Pagua, speaking for petitioner, asserts that the inhibition of the members of the Supreme Court from hearing the petition is called for under Rule 5.10 of the Code of Judicial Conduct prohibiting justices or judges from participating in any partisan political activity which proscription, according to him, the justices have violated by attending the `EDSA 2 Rally' and by authorizing the assumption of Vice-President Gloria Macapagal Arroyo to the Presidency in violation of the 1987 Constitution. Petitioner contends that the justices have thereby prejudged a case that would assail the legality of the act taken by President Arroyo. The subsequent decision of the Court in *Estrada v. Arroyo* (353 SCRA 452 and 356 SCRA 108) is, petitioner states, a patent mockery of justice and due process.

"Attorney Pagua first made his appearance for petitioner when he filed an Omnibus Motion on 19 May 2003, before the Sandiganbayan, asking that `the appointment of counsels *de officio* (sic) be declared *functus*

*officio*' and that, being the now counsel *de parte*, he be notified of all subsequent proceedings in Criminal Cases No. 26558, No. 26565 and No. 26905 pending therein. Finally, Attorney Paguaia asked that all the foregoing criminal cases against his client be dismissed.

"During the hearing of the Omnibus Motion on 30 May 2003, petitioner presented to the court several portions of the book, entitled 'Reforming the Judiciary,' written by Justice Artemio Panganiban, to be part of the evidence for the defense. On 9 June 2003, petitioner filed a motion pleading, among other things, that -

"a) x x x President Estrada be granted the opportunity to prove the 'truth' of the statements contained in Justice Artemio Panganiban's book, 'REFORMING THE JUDICIARY,' in relation to the prejudgment committed by the Supreme Court justices against President Estrada in the subject case/s of *Estrada v. Arroyo*, 353 SCRA 452 and 356 SCRA 108; and,

"b) A *subpoena ad testificandum* and *duces tecum* be issued to Justice Artemio Panganiban, Justice Antonio Carpio, Justice Renato Corona, Secretary Angelo Reyes of the Department of National Defense, Vice President Gloria Macapagal-Arroyo, Senator Aquilino Pimentel, Jr., and Chief Justice Hilario Davide, Jr. for them to testify and bring whatever supporting documents they may have in relation to their direct and indirect participation in the proclamation of Vice President Gloria Macapagal Arroyo on January 20, 2001, as cited in the book of Justice Panganiban, including the material events that led to that proclamation and the ruling/s in the *Estrada vs. Arroyo*, supra.' (Rollo, pp. 6-7.)

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"The 'truth' referred to in paragraph a) of the relief sought in the motion of petitioner pertains to what he claims should have been included in the resolution of the Sandiganbayan; viz:

`The request of the movant is simply for the Court to include in its Joint Resolution the TRUTH of the acts of Chief Justice Davide, et al., last January 20, 2001 in:

`a) going to EDSA 2;

`b) authorizing the proclamation of Vice-President Arroyo as President on the ground of `permanent disability' even without proof of compliance with the corresponding constitutional conditions, e.g., written declaration by either the President or majority of his cabinet; and

`c) actually proclaiming Vice-President Arroyo on that same ground of permanent disability.

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`c)actually proclaiming Vice-President Arroyo on that same ground of permanent disability.

`It is patently unreasonable for the Court to refuse to include these material facts which are obviously undeniable. Besides, it is the only defense of President Estrada.' (Petition, Rollo, pp. 13-14.)

"On 2 July 2003, the Sandiganbayan issued an order denying the foregoing motion, as well as the motion to dismiss, filed by petitioner. Forthwith, petitioner filed a `*Mosyong Pangrekonsiderasyon*' of the foregoing order. According to Attorney Paguia, during the hearing of his `*Mosyong Pangrekonsiderasyon*' on 11 June 2003, the three justices of the Special Division of the Sandiganbayan made manifest their bias and partiality against his client. Thus, he averred, Presiding Justice Minita V. Chico-Nazario supposedly employed foul and disrespectful language when she blurted out, `*Magmumukha naman kaming gago,*' (Rollo, p. 13.) and Justice Teresita Leonardo-De Castro characterized the motion as insignificant even before the prosecution could file its comments or opposition thereto, (Rollo, p. 12.) remarking in open court that to grant Estrada's motion would result in chaos and disorder. (*Ibid.*) Prompted by the alleged `bias and partial attitude' of the Sandiganbayan justices, Attorney Paguia filed, on 14 July 2003, a motion for their disqualification. On 31 July 2003, petitioner received the two assailed resolutions, i.e., the resolution (Promulgated on 30 July 2003.) of 28 July 2003, denying petitioner's motion for reconsideration of 6 July 2003; viz:

`WHEREFORE, premises considered, accused-movant Joseph Ejercito Estrada's `*Mosyong Pangrekonsiderasyon*' (Na