

FIRST DIVISION

[G.R. No. 134272, December 08, 1999]

**MAYOR CELIA T. LAYUS, M.D., PETITIONER, VS.
SANDIGANBAYAN, AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

DAVIDE, JR., C.J.:

This case is a special civil action for *certiorari* and prohibition filed under Rule 65 of the Rules of Court. Petitioner asks us to finally settle the issue of jurisdiction of the Sandiganbayan in criminal cases against mayors of fifth class municipalities and nullify the assailed resolutions of the Sandiganbayan's Fifth Division.

Petitioner Celia T. Layus (hereafter LAYUS), the elected Mayor of the Municipality of Claveria, Province of Cagayan, was charged with estafa through falsification of public documents in an Information^[1] filed on 19 February 1997 before public respondent Sandiganbayan and docketed therein as Criminal Case No. 23583.

The Information stemmed from a complaint for estafa through falsification of public documents and for violation of Section 3(e) and (h), and Section 4 of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, filed against LAYUS and Pedro V. Layus, Henjie C. Layus and Arnold V. Layus. After preliminary investigation, Graft Investigation Officer II Jose D. Carlos of the Office of the Deputy Ombudsman for Luzon, in a Joint Resolution dated 21 November 1996, recommended the filing of an information against LAYUS for the first charge and the dismissal of the charges against all of the original respondents for the second. The resolution had the concurrence of Director Ernesto Nocos and was approved by the Ombudsman.

LAYUS alleged that she received a copy of the Joint Resolution of 21 November 1996 on 21 February 1997, and filed a motion for reconsideration thereof on 7 March 1997, without knowledge of the filing of the Information on 17 February 1997, the date the joint resolution was released.

On 8 April 1997, a warrant of arrest was served on LAYUS. She filed a cash bond for her temporary liberty. She also filed a motion to lift the travel ban imposed on her, considering that she was scheduled to leave the country on 21 April and to be away up to 15 May 1997. Her arrest allegedly came at a time when she was preparing for her trip, thus, leaving her with no other alternative but to post bail and file the motion.

The motion to lift the travel ban was set for hearing on 18 April 1997. On that date, however, the Sandiganbayan required her to enter a plea before lifting the travel restriction. On account of her impending trip, she acceded and entered a plea of not

guilty on condition that her plea not be deemed to be a waiver of her right to file a motion for reinvestigation and a motion to quash the information. She claimed that the Sandiganbayan recognized such right until the Ombudsman resolved her pending motion.

On 24 March 1997, the Office of the Deputy Ombudsman denied LAYUS' motion for reconsideration of the Joint Resolution of 21 November 1996.

On 6 August 1997, the first day set by the Sandiganbayan for the trial of the case, LAYUS informed the court of the prior filing of her motion for reinvestigation^[2] dated 2 August 1997, which was allegedly sent by registered mail, but the Sandiganbayan had not received any copy of it.

On 7 August 1997, LAYUS filed a motion to quash the Information.^[3] In the meantime, with appropriate leave, LAYUS served and filed an Omnibus Motion dated 25 September 1997, reiterating her right to reinvestigation.^[4] This was, however, denied by the Sandiganbayan in its resolution of 1 December 1997.^[5] LAYUS' motion to reconsider the denial likewise failed.^[6]

In its resolution of 9 October 1997, the Sandiganbayan denied LAYUS' motion to quash and ruled that the alleged irregularities in the preliminary investigation were not proper grounds for quashing the Information.^[7]

On 19 November 1997,^[8] the prosecution filed with the Sandiganbayan a Motion to Suspend Accused *Pendente Lite*, which LAYUS opposed on 26 November 1997.^[9] The resolution of said motion was held in abeyance in light of the May 1998 elections and the prohibition under Section 261 of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code, as amended, which provides thus:

(x) *Suspension of elective provincial, city, municipal or barangay officer* - the provisions of law to the contrary notwithstanding during the election period, any public official who suspends, without prior approval of the Commission, any elective provincial, city, municipal or barangay officer, unless said suspension will be for purposes of applying the "Anti-Graft and Corrupt Practices Act" in relation to the suspension and removal of elective officials; in which case the provisions of this section shall be inapplicable.

On 26 June 1998, the Sandiganbayan eventually granted the motion to suspend LAYUS.^[10]

Hence, on 13 July 1998, LAYUS filed the instant petition contending that:

- A. THE SANDIGANBAYAN ERRED IN ASSUMING JURISDICTION OVER PETITIONER.
- B. THE SANDIGANBAYAN ERRED IN DENYING PETITIONER'S MOTION FOR REINVESTIGATION.
- C. THE 90-DAY SUSPENSION *PENDENTE LITE* IS AN ERROR.

In support of the first assigned error, LAYUS contends that at the time of the alleged commission of the offense, she was only receiving a basic monthly salary of P11,441 which is classified as Salary Grade (SG) 25 under Republic Act No. 6758, otherwise known as the Compensation and Position Classification Act of 1989. Because of this, she is not within the jurisdiction of the Sandiganbayan, which has jurisdiction over civil servants with SG 27 or over.

LAYUS further maintains that Section 444 (d) of the Local Government Code^[11] does not determine the jurisdiction of the Sandiganbayan. Said provision simply prescribes the minimum compensation of municipal mayors at SG 27, and does not *ipso facto* classify said position as SG 27, considering the financial restrictions provided under R. A. No. 6758. Since she in fact receives a compensation falling within SG 25, it would be absurd, unjust and be a complete violation of her constitutional right to equal protection of laws if she would be considered to be an SG 27 official.

As to the second assigned error, LAYUS alleges that the subject fund is confidential in nature and, therefore, governed by COA Circular No. 385. She relies on the exclusive authority of the Commission on Audit to promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive and unconscionable expenditures or uses of government funds and properties. The Ombudsman allegedly failed to get a copy of the COA Report on the questioned transactions. She also points out that the documents presented during the preliminary investigation were not authenticated. Furthermore, she makes mention of the alleged breach of the agreement between her and the prosecution to stay the reglementary period for filing a motion for reinvestigation, as approved by the Sandiganbayan during the unscheduled arraignment held on 18 April 1997.

Finally, on the questioned 90-day suspension *pendente lite*, LAYUS cites the resolution in *Rios v. Sandiganbayan* (Second Division)^[12] wherein this Court ruled that the Sandiganbayan erred in imposing a 90-day suspension upon the petitioner for the single case filed against him and reduced the same to 60 days.

After due deliberation, we find the petition to be without merit.

In *Rodrigo, et al. v. Sandiganbayan* (First Division),^[13] we ruled that 5th class municipality mayors fall under the original and exclusive jurisdiction of the Sandiganbayan. The Court added that although municipal mayors are not included in the enumeration under Section 4.a. of Republic Act No. 7975,^[14] Congress, nevertheless, provided a catchall proviso in paragraph (5) thereof, thus:

(5) All other national and local officials classified as Grade 27 and higher under the Compensation and Position Classification Act of 1989.

Pursuant thereto, R.A. No. 6758^[15] laid down the criteria and then authorized the Department of Budget and Management (DBM) to prepare the Index of Occupational Services, Position Titles and Salary Grades. Municipal mayors are assigned SG 27 in its two editions of 1989 and 1997.

We are not persuaded by petitioner's claim that at the time of the alleged

commission of the crime, she was only receiving a monthly salary of P11,441, an amount equivalent to SG 25 under R.A. No. 6758; hence, she falls outside the original and exclusive jurisdiction of the Sandiganbayan.

The fact that LAYUS is getting an amount less than that prescribed for SG 27 is entirely irrelevant for purposes of determining the jurisdiction of the Sandiganbayan. Sections 10 and 19 (b) of R.A. No. 6758 refer to the rates of pay for SG 25, viz:

Section 10. *Local Government Units (LGUs).*-- The rates of pay in LGUs shall be determined on the basis of the class and financial capability of each LGU: Provided, That such rates of pay shall not exceed the following percentages of the rates in the salary schedule prescribed under Section 7 hereof:

"Sec. 7. *Salary Schedule.* -- The Department of Budget and Management is hereby directed to implement the Salary Schedule prescribed below:

Salary Schedule

Grade	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th
25	11,385	11,499	11,614	11,730	11,847	11,966	12,085	12,206

Section 19. *Funding Source.*-- The funding sources for the amounts necessary to implement this Act shall be as follows:

(b) local government units, the amount shall be charged against their respective funds. Local government units which do not have adequate or sufficient funds shall only partially implement the established rates as may be approved by the Joint Commission under Sec.8 of Presidential Decree No.1188. Provided, That any partial implementation shall be uniform and proportionate for all positions in each local government unit: Provided further, That savings from National Assistance to Local Government Units (NALGU) funds may be used for this purpose.

That LAYUS is receiving a rate within SG 25 should not, however, be construed to mean that she falls within the classification of SG 25.

On the denial of petitioner's motion for reinvestigation, a perusal of the records reveals that, indeed, LAYUS was unable to file a motion for reconsideration before the Ombudsman. But it should be stressed that the very essence of due process lies in the reasonable opportunity to be heard and to submit any evidence one may have in support of one's defense.^[16] In this case, LAYUS was fully accorded her right to due process. She was represented by counsel and was heard, as may be gathered from the numerous pleadings she had filed.

Moreover, in *Pecho v. Sandiganbayan*,^[17] we ruled that the failure to furnish the respondent with a copy of an adverse resolution pursuant to Section 6, Rule II of