

THIRD DIVISION

[G.R. No. 191894, July 15, 2015]

**DANILO A. DUNCANO, PETITIONER, VS. HON. SANDIGANBAYAN
(2ND DIVISION), AND HON. OFFICE OF THE SPECIAL
PROSECUTOR, RESPONDENTS.**

DECISION

PERALTA, J.:

This petition for *certiorari* under Rule 65 of the Rules of Court (*Rules*) with prayer for issuance of preliminary injunction and/or temporary restraining order seeks to reverse and set aside the August 18, 2009 Resolution^[1] and February 8, 2010 Order^[2] of respondent Sandiganbayan Second Division in Criminal Case No. SB-09-CRM-0080, which denied petitioner's Motion to Dismiss on the ground of lack of jurisdiction.

The facts are plain and undisputed.

Petitioner Danilo A. Duncano is, at the time material to the case, the Regional Director of the Bureau of Internal Revenue (BIR) with Salary Grade 26 as classified under Republic Act (R.A.) No. 6758.^[3] On March 24, 2009,^[4] the Office of the Special Prosecutor (OSP), Office of the Ombudsman, filed a criminal case against him for violation of Section 8, in relation to Section 11 of R.A. No. 6713,^[5] allegedly committed as follows:

That on or about April 15, 2003, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused DANILO DUNCANO y ACIDO, a high ranking public officer, being the Regional Director of Revenue Region No. 7, of the Bureau of Internal Revenue, Quezon City, and as such is under an obligation to accomplish and submit declarations under oath of his assets, liabilities and net worth and financial and business interests, did then and there, wilfully, unlawfully and criminally fail to disclose in his Sworn Statement of Assets and Liabilities and Networth (SALN) for the year 2002, his financial and business interests/connection in Documail Provides Corporation and Don Plus Trading of which he and his family are the registered owners thereof, and the 1993 Nissan Patrol motor vehicle registered in the name of his son VINCENT LOUIS P. DUNCANO which are part of his assets, to the damage and prejudice of public interest.

CONTRARY TO LAW.^[6]

Prior to his arraignment, petitioner filed a Motion to Dismiss With Prayer to Defer the

Issuance of Warrant of Arrest^[7] before respondent Sandiganbayan Second Division. As the OSP alleged, he admitted that he is a Regional Director with Salary Grade 26. Citing *Inding v. Sandiganbayan*^[8] and *Serana v. Sandiganbayan, et al.*,^[9] he asserted that under Presidential Decree (P.D.) No. 1606, as amended by Section 4 (A) (1) of R.A. No. 8249,^[10] the Sandiganbayan has no jurisdiction to try and hear the case because he is an official of the executive branch occupying the position of a Regional Director but with a compensation that is classified as below Salary Grade 27.

In its Opposition,^[11] the OSP argued that a reading of Section 4 (A) (1) (a) to (g) of the subject law would clearly show that the qualification as to Salary Grade 27 and higher applies only to officials of the executive branch other than the Regional Director and those specifically enumerated. This is so since the term "Regional Director" and "higher" are separated by the conjunction "and," which signifies that these two positions are different, apart and distinct, words but are conjoined together "relating one to the other" to give effect to the purpose of the law. The fact that the position of Regional Director was specifically mentioned without indication as to its salary grade signifies the lawmakers' intention that officials occupying such position, regardless of salary grade, fall within the original and exclusive jurisdiction of the Sandiganbayan. This issue, it is claimed, was already resolved in *Inding*. Finally, the OSP contended that the filing of the motion to dismiss is premature considering that the Sandiganbayan has yet to acquire jurisdiction over the person of the accused.

Still not to be outdone, petitioner invoked the applicability of *Cuyco v. Sandiganbayan*^[12] and *Organo v. Sandiganbayan*^[13] in his rejoinder.

On August 18, 2009, the Sandiganbayan Second Division promulgated its Resolution, disposing:

WHEREFORE, in the light of the foregoing, the Court hereby **DENIES** the instant Motion to Dismiss for being devoid of merit. Let a Warrant of Arrest be therefore issued against the accused.

SO ORDERED.^[14]

The respondent court ruled that the position of Regional Director is one of those exceptions where the Sandiganbayan has jurisdiction even if such position is not Salary Grade 27. It was opined that Section 4 (A) (1) of R.A. No. 8249 unequivocally provides that respondent court has jurisdiction over officials of the executive branch of the government occupying the position of regional director and higher, otherwise classified as Salary Grade 27 and higher, of R.A. No. 6758, including those officials who are expressly enumerated in subparagraphs (a) to (g). In support of the ruling, this Court's pronouncements in *Inding* and *Binay v. Sandiganbayan*^[15] were cited.

Petitioner filed a Motion for Reconsideration, but it was denied;^[16] Hence, this petition.

Instead of issuing a temporary restraining order or writ of preliminary injunction,

the Court required respondents to file a comment on the petition without necessarily giving due course thereto.^[17] Upon compliance of the OSP, a Rejoinder (supposedly a Reply) was filed by petitioner.

At the heart of the controversy is the determination of whether, according to P.D. No. 1606, as amended by Section 4 (A) (1) of R.A No. 8249, only Regional Directors with Salary Grade of 27 and higher, as classified under R.A. No. 6758, fall within the exclusive jurisdiction of the Sandiganbayan. Arguing that he is not included among the public officials specifically enumerated in Section 4 (A) (1) (a) to (g) of the law and heavily relying as well on Cuyco, petitioner insists that respondent court lacks jurisdiction over him, who is merely a Regional Director with Salary Grade 26. On the contrary, the OSP maintains that a Regional Director, irrespective of salary grade, falls within the exclusive original jurisdiction of the Sandiganbayan.

We find merit in the petition.

The creation of the Sandiganbayan was mandated by Section 5, Article XIII of the 1973 Constitution.^[18] By virtue of the powers vested in him by the Constitution and pursuant to Proclamation No. 1081, dated September 21, 1972, former President Ferdinand E. Marcos issued P.D. No. 1486.^[19] The decree was later amended by P.D. No. 1606,^[20] Section 20 of Batas Pambansa Blg. 129,^[21] P.D. No. 1860,^[22] and P.D. No. 1861.^[23]

With the advent of the 1987 Constitution, the special court was retained as provided for in Section 4, Article XI thereof.^[24] Aside from Executive Order Nos. 14^[25] and 14-a,^[26] and R.A. 7080,^[27] which expanded the jurisdiction of the Sandiganbayan, P.D. No. 1606 was further modified by R.A. No. 7975,^[28] R.A. No. 8249,^[29] and just this year, R.A. No. 10660.^[30]

For the purpose of this case, the relevant provision is Section 4 of R.A. No. 8249, which states:

SEC. 4. Section 4 of the same decree is hereby further amended to read as follows:

"SEC. 4. *Jurisdiction.* – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

"A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

"(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade

'27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

"(a) Provincial governors, vice-governors, members of the *sangguniang panlalawigan*, and provincial treasurers, assessors, engineers, and other provincial department heads;

"(b) City mayor, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;

"(c) Officials of the diplomatic service occupying the position of consul and higher;

"(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

"(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;

"(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

"(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

"(2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;

"(3) Members of the judiciary without prejudice to the provisions of the Constitution;

"(4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and

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

"B. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

"C. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

x x x"

Based on the afore-quoted, those that fall within the original jurisdiction of the Sandiganbayan are: (1) officials of the executive branch with Salary Grade 27 or higher, and (2) officials specifically enumerated in Section 4 (A) (1) (a) to (g), regardless of their salary grades.^[31] While the first part of Section 4 (A) covers only officials of the executive branch with Salary Grade 27 and higher, its second part specifically includes other executive officials whose positions may not be of Salary Grade 27 and higher but who are by express provision of law placed under the jurisdiction of the Sandiganbayan.^[32]

That the phrase "*otherwise classified as Grade '27' and higher*" qualifies "*regional director and higher*" is apparent from the Sponsorship Speech of Senator Raul S. Roco on Senate Bill Nos. 1353 and 844, which eventually became R.A. Nos. 7975 and 8249, respectively:

As proposed by the Committee, the Sandiganbayan shall exercise original jurisdiction over the cases assigned to it only in instances where one or more of the principal accused are officials occupying the positions of regional director and higher or are otherwise classified as Grade 27 and higher by the Compensation and Position Classification Act of 1989, whether in a permanent, acting or interim capacity at the time of the commission of the offense. **The jurisdiction, therefore, refers to a certain grade upwards, which shall remain with the Sandiganbayan.**^[33] (Emphasis supplied)

To speed up trial in the Sandiganbayan, Republic Act No. 7975 was enacted for that Court to concentrate on the "larger fish" and leave the "small fry" to the lower courts. This law became effective on May 6, 1995 and it provided a two-pronged solution to the clogging of the dockets of that court, to wit:

It divested the Sandiganbayan of jurisdiction over public officials whose salary grades were at Grade "26" or lower, devolving thereby these cases to the lower courts, and retaining the jurisdiction of the Sandiganbayan only over public officials whose salary grades were at Grade "27" or higher and over other specific public officials holding important positions in government regardless of salary grade; x x x^[34]
(Emphasis supplied)

The legislative intent is to allow the Sandiganbayan to devote its time and expertise to big-time cases involving the so-called "big fishes" in the government rather than those accused who are of limited means who stand trial for "petty crimes," the so-called "small fry," which, in turn, helps the court decongest its dockets.^[35]