

## SECOND DIVISION

[ G.R. No. 171513, February 06, 2012 ]

**ARNOLD JAMES M. YSIDORO, PETITIONER, VS. HON. TERESITA J. LEONARDO- DE CASTRO, HON. DIOSDADO M. PERALTA AND HON. EFREN N. DE LA CRUZ, IN THEIR OFFICIAL CAPACITIES AS PRESIDING JUSTICE AND ASSOCIATE JUSTICES, RESPECTIVELY, OF THE FIRST DIVISION OF THE SANDIGANBAYAN, AND NIERNA S. DOLLER, RESPONDENTS.**

[G.R. NO. 190963]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. FIRST DIVISION OF THE SANDIGANBAYAN AND ARNOLD JAMES M. YSIDORO, RESPONDENTS.**

### D E C I S I O N

**BRION, J.:**

Before us are consolidated petitions assailing the rulings of the Sandiganbayan in Criminal Case No. 27963, entitled "*People of the Philippines v. Arnold James M. Ysidoro.*"

G.R. No. 171513 is a petition for *certiorari* and prohibition under Rule 65 of the Rules of Court (Rules) filed by petitioner Arnold James M. Ysidoro to annul the resolutions, dated July 6, 2005<sup>[1]</sup> and January 25, 2006,<sup>[2]</sup> of the Sandiganbayan granting the "Motion to Suspend Accused *Pendente Lite.*"

G.R. No. 190963, on the other hand, is a petition for *certiorari* under Rule 65 filed by the People of the Philippines through the Office of the Special Prosecutor (*People*) to annul and set aside the decision,<sup>[3]</sup> dated October 1, 2009, and the resolution,<sup>[4]</sup> dated December 9, 2009, of the Sandiganbayan which acquitted Ysidoro for violation of Section 3(e) of Republic Act (R.A.) No. 3019 (Anti-Graft and Corrupt Practices Acts), as amended.

#### The Antecedents

Ysidoro, as Municipal Mayor of Leyte, Leyte, was charged before the Sandiganbayan, with the following information:

That during the period from June 2001 to December 2001 or for sometime prior or subsequent thereto, at the Municipality of Leyte, Province of Leyte, Philippines, and within the jurisdiction of [the] Honorable Court, above-named accused, ARNOLD JAMES M. YSIDORO, a public officer, being the Municipal Mayor of Leyte, Leyte, in such capacity

and committing the offense in relation to office, with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully and criminally, withhold and fail to give to Nierna S. Doller, Municipal Social Welfare and Development Officer (MSWDO) of Leyte, Leyte, without any legal basis, her RATA for the months of August, September, October, November and December, all in the year 2001, in the total amount of TWENTY-TWO THOUSAND ONE HUNDRED TWENTY-FIVE PESOS (P22,125.00), Philippine Currency, and her Productivity Pay in the year 2000, in the amount of TWO THOUSAND PESOS (P2,000.00), Philippine Currency, and despite demands made upon accused to release and pay her the amount of P22,125.00 and P2,000.00, accused failed to do so, thus accused in the course of the performance of his official functions had deprived the complainant of her RATA and Productivity Pay, to the damage and injury of Nierna S. Doller and detriment of public service.<sup>[5]</sup>

Ysidoro filed an omnibus motion to quash the information and, in the alternative, for judicial determination of probable cause,<sup>[6]</sup> which were both denied by the Sandiganbayan. In due course, Ysidoro was arraigned and he pleaded not guilty.

*The Sandiganbayan Preventively Suspends Ysidoro*

On motion of the prosecution,<sup>[7]</sup> the Sandiganbayan preventively suspended Ysidoro for ninety (90) days in accordance with Section 13 of R.A. No. 3019, which states:

Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office.

Ysidoro filed a motion for reconsideration, and questioned the necessity and the duration of the preventive suspension. However, the Sandiganbayan denied the motion for reconsideration, ruling that -

Clearly, by well established jurisprudence, the provision of Section 13, Republic Act 3019 make[s] it mandatory for the Sandiganbayan to suspend, for a period not exceeding ninety (90) days, any public officer who has been validly charged with a violation of Republic Act 3019, as amended or Title 7, Book II of the Revised Penal Code or any offense involving fraud upon government of public funds or property.<sup>[8]</sup>

Ysidoro assailed the validity of these Sandiganbayan rulings in his petition (G.R. No. 171513) before the Court. Meanwhile, trial on the merits in the principal case continued before the Sandiganbayan. The prosecution and the defense presented their respective evidence.

The prosecution presented Nierna S. Doller as its sole witness. According to Doller, she is the Municipal Social Welfare Development Officer of Leyte. She claimed that Ysidoro ordered her name to be deleted in the payroll because her husband transferred his political affiliation and sided with Ysidoro's opponent. After her name was deleted from the payroll, Doller did not receive her representation and transportation allowance (RATA) for the period of August 2001 to December 2001. Doller also related that she failed to receive her productivity bonus for the year 2000 (notwithstanding her performance rating of "VS") because Ysidoro failed to sign her Performance Evaluation Report. Doller asserted that she made several attempts to claim her RATA and productivity bonus, and made representations with Ysidoro, but he did not act on her requests. Doller related that her family failed to meet their financial obligations as a result of Ysidoro's actions.

To corroborate Doller's testimony, the prosecution presented documentary evidence in the form of disbursement vouchers, request for obligation of allotment, letters, excerpts from the police blotter, memorandum, telegram, certification, order, resolution, and the decision of the Office of the Deputy Ombudsman absolving her of the charges.<sup>[9]</sup>

On the other hand, the defense presented seven (7) witnesses,<sup>[10]</sup> including Ysidoro, and documentary evidence. The defense showed that the withholding of Doller's RATA was due to the investigation conducted by the Office of the Mayor on the anomalies allegedly committed by Doller. For this reason, Ysidoro ordered the padlocking of Doller's office, and ordered Doller and her staff to hold office at the Office of the Mayor for the close monitoring and evaluation of their functions. Doller was also prohibited from outside travel without Ysidoro's approval.

#### *The Sandiganbayan Acquits Ysidoro*

In a decision dated October 1, 2009,<sup>[11]</sup> the Sandiganbayan acquitted Ysidoro and held that the second element of the offense – that there be malice, ill-motive or bad faith – was not present. The Sandiganbayan pronounced:

This Court acknowledges the fact that Doller was entitled to RATA. However, the antecedent facts and circumstances did not show any indicia of bad faith on the part of [Ysidoro] in withholding the release of Doller's RATA.

In fact, this Court believes that [Ysidoro] acted in good faith and in honest belief that Doller was not entitled to her RATA based on the opinion of the COA resident Auditor and Section 317 of the Government Accounting and Auditing Manual.

It may be an erroneous interpretation of the law, nonetheless, [Ysidoro's] reliance to the same was a clear basis of good faith on his part in withholding Doller's RATA.

With regard to the Productivity Incentive Bonus, Doller was aware that the non-submission of the Performance Evaluation Form is a ground for

an employee's non-eligibility to receive the Productivity Incentive Bonus:

a) *Employees' disqualification for performance-based personnel actions which would require the rating for the given period such as promotion, training or scholarship grants, and productivity incentive bonus if the failure of the submission of the report form is the fault of the employees.*

Doller even admitted in her testimonies that she failed to submit her Performance Evaluation Report to [Ysidoro] for signature.

There being no malice, ill-motive or taint of bad faith, [Ysidoro] had the legal basis to withhold Doller's RATA and Productivity pay.<sup>[12]</sup> (italics supplied)

In a resolution dated December 9, 2009,<sup>[13]</sup> the Sandiganbayan denied the prosecution's motion for reconsideration, reasoning that -

It must be stressed that this Court acquitted [Ysidoro] for two reasons: firstly, the prosecution failed to discharge its burden of proving that accused Ysidoro acted in bad faith as stated in paragraph 1 above; and secondly, the exculpatory proof of good faith xxx.

Needless to state, paragraph 1 alone would be enough ground for the acquittal of accused Ysidoro. Hence, the COA Resident Auditor need not be presented in court to prove that [Ysidoro] acted in good faith. This is based on the legal precept that "*when the prosecution fails to discharge its burden, an accused need not even offer evidence in his behalf.*" <sup>[14]</sup> (italics supplied)

Supervening events occurred after the filing of Ysidoro's petition which rendered the issue in G.R. No. 171513 — i.e., the propriety of his preventive suspension — moot and academic. First, Ysidoro is no longer the incumbent Municipal Mayor of Leyte, Leyte as his term of office expired in 2007. Second, the prosecution completed its presentation of evidence and had rested its case before the Sandiganbayan. And *third*, the Sandiganbayan issued its decision acquitting Ysidoro of the crime charged.

In light of these events, what is left to resolve is the petition for certiorari filed by the People on the validity of the judgment acquitting Ysidoro of the criminal charge.

#### *The People's Petition*

The People posits that the elements of Section 3(e) of R.A. No. 3019 have been duly established by the evidence, in that:

**First.** [Ysidoro] was the Municipal Mayor of Leyte, Leyte when he ordered the deletion of private complainant's name in the payroll for RATA and

productivity pay.

**Second.** He caused undue injury to [Doller] when he ordered the withholding of her RATA and productivity pay. It is noteworthy that complainant was the only official in the municipality who did not receive her RATA and productivity pay even if the same were already included in the budget for that year. x x x

Consequently, [Doller] testified that her family suffered actual and moral damages due to the withholding of her benefits namely: a) the disconnection of electricity in their residence; x x x b) demand letters from their creditors; x x x c) her son was dropped from school because they were not able to pay for his final exams; x x x d) [h]er children did not want to go to school anymore because they were embarrassed that collectors were running after them.

**Third.** Accused clearly acted in evident bad faith as he used his position to deprive [Doller] of her RATA and productivity pay for the period mentioned to harass her due to the transfer of political affiliation of her husband.<sup>[15]</sup> (emphasis supplied)

The People argues<sup>[16]</sup> that the Sandiganbayan gravely abused its discretion, and exceeded its, or acted without, jurisdiction in not finding Ysidoro in bad faith when he withheld Doller's RATA and deprived her of her productivity bonus. The Sandiganbayan failed to take into account that: first, the Commission on Audit (COA) resident auditor was never presented in court; second, the documentary evidence showed that Doller continuously discharged the functions of her office even if she had been prevented from outside travel by Ysidoro; third, Ysidoro refused to release Doller's RATA and productivity bonus notwithstanding the dismissal by the Ombudsman of the cases against her for alleged anomalies committed in office; and fourth, Ysidoro caused Doller's name to be dropped from the payroll without justifiable cause, and he refused to sign the disbursement vouchers and the request for obligation of allotment so that Doller could claim her RATA and her productivity bonus.

In the same manner, the People asserts that the Sandiganbayan gravely abused its discretion when it ruled that Doller was not eligible to receive the productivity bonus for her failure to submit her Performance Evaluation Report. The Sandiganbayan disregarded the evidence showing the strained relationship and the maneuverings made by Ysidoro so that he could deny her this incentive.

In his Comment,<sup>[17]</sup> Ysidoro prays for the dismissal of the petition for procedural and substantive infirmities. First, he claims that the petition was filed out of time considering the belated filing of the People's motion for reconsideration before the Sandiganbayan. He argues that by reason of the late filing of the motion for reconsideration, the present petition was filed beyond the 60-day reglementary period. Ysidoro also argues that the 60-day reglementary period should have been counted from the People's receipt of the Sandiganbayan's decision since no motion for reconsideration was seasonably filed. Second, Ysidoro claims that the Sandiganbayan's ruling was in accord with the evidence and the prosecution was not