

THIRD DIVISION

[G.R. No. 162059, January 22, 2008]

**HANNAH EUNICE D. SERANA, G.R. No. 162059 Petitioner, VS.
SANDIGANBAYAN and PEOPLE OF THE PHILIPPINES,
Respondents.**

D E C I S I O N

REYES, R.T., J.:

CAN the Sandiganbayan try a government scholaran iskolar ng bayan a** accused, along with her brother, of swindling government fundsccused of being the swindler ng bayan?

MAAARI bang litisin ng Sandiganbayan ang isang iskolar ng bayan, at ang kanyang kapatid, na kapwa pinararatangan ng estafa ng pera ng bayan?

The jurisdictional question is posed in this petition for *Certiorari* with Prayer for the Issuance of Temporary Restraining Order or Preliminary Injunction certiorari assailing the Resolutions^[1] of the Sandiganbayan, Fifth Division, denying petitioner's motion to quash the information and herdenying petitioner's motion for reconsideration.

The Antecedents

Petitioner Hannah Eunice D. Serana was a senior student of the University of the Philippines-Cebu (UP). A student of a state university is known as a government scholar. She was appointed by then President Joseph Estrada on December 21, 1999 as a student regent of UP, to serve a one-year term starting January 1, 2000 and ending on December 31, 2000.

In the early part of 2000, petitioner discussed with President Estrada the renovation of Vinzons Hall Annex in UP Diliman.^[2] On September 4, 2000, petitioner, with her siblings and relatives, registered with the Securities and Exchange Commission the Office of the Student Regent Foundation, Inc. (OSRFI).^[3]

One of the projects of the OSRFI was the renovation of the Vinzons Hall Annex.^[4] President Estrada gave Fifteen Million Pesos (P15,000,000.00) to the OSRFI as financial assistance for the proposed renovation. The source of the funds, according to the information, wais disputed the Office of the President.

The renovation of Vinzons Hall Annex failed to materialize.^[5] The succeeding student regent, Kristine Clare Bugayong, and Christine Jill De Guzman, Secretary General of the KASAMA sa U.P., a system-wide alliance of student councils within the state university, consequently filed a complaint for Malversation of Public Funds and

Property with the Office of the Ombudsman.^[6]

On July 3, 2003, the Ombudsman, after due investigation, found probable cause to indict petitioner and her brother Jade Ian D. Serana for *estafa*, docketed as Criminal Case No. 27819 of the Sandiganbayan.^[7] The Information against her reads:

The undersigned Special Prosecution Officer III, Office of the Special Prosecutor, hereby accuses HANNAH EUNICE D. SERANA and JADE IAN D. SERANA of the crime of *Estafa*, defined and penalized under Paragraph 2(a), Article 315 of the Revised Penal Code, as amended committed as follows:

That on October, 24, 2000, or sometime prior or subsequent thereto, in Quezon City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, HANNAH EUNICE D. SERANA, a high-ranking public officer, being then the Student Regent of the University of the Philippines, Diliman, Quezon City, while in the performance of her official functions, committing the offense in relation to her office and taking advantage of her position, with intent to gain, conspiring with her brother, JADE IAN D. SERANA, a private individual, did then and there wilfully, unlawfully and feloniously defraud the government by falsely and fraudulently representing to former President Joseph Ejercito Estrada that the renovation of the Vinzons Hall of the University of the Philippines will be renovated and renamed as "President Joseph Ejercito Estrada Student Hall," and for which purpose accused HANNAH EUNICE D. SERANA requested the amount of FIFTEEN MILLION PESOS (P15,000,000.00), Philippine Currency, from the Office of the President, and the latter relying and believing on said false pretenses and misrepresentation gave and delivered to said accused Land Bank Check No. 91353 dated October 24, 2000 in the amount of FIFTEEN MILLION PESOS (P15,000,000.00), which check was subsequently encashed by accused Jade Ian D. Serana on October 25, 2000 and misappropriated for their personal use and benefit, and despite repeated demands made upon the accused for them to return aforesaid amount, the said accused failed and refused to do so to the damage and prejudice of the government in the aforesaid amount.

CONTRARY TO LAW. .(Underscoring supplied).

Petitioner moved to quash the information. She claimed that the Sandiganbayan does not have any jurisdiction over the offense charged or over her person, in her capacity as UP student regent.

Petitioner claimed that Republic Act (R.A.) No. 3019, as amended by R.A. No. 8249, enumerates the crimes or offenses over which the Sandiganbayan has jurisdiction.^[8] It has no jurisdiction over the crime of *estafa*.^[9] It only has jurisdiction over crimes covered by Title VII, Chapter II, Section 2 (Crimes Committed by Public Officers), Title VII, Book II of the Revised Penal Code (RPC). *Estafa* falling under Title X, Chapter VI (Crimes Against Property), Book II of the RPC is not within the Sandiganbayan's jurisdiction.

ShePetitioner also arguedreasoned that it was President Estrada, and not the government, that was duped. Even assuming that she received the P15,000,000.00, that amount came from Estrada, and not from the coffers of the government.^[10]

Petitioner likewise posited that the Sandiganbayan had no jurisdiction over her person. AShe claimed that as a student regent, she was not a public officer since she merely represented her peers, in contrast to the other regents whothat held their positions in an *ex officio* capacity. She addsd that she was a simple student and did not receive any salary as a student regent.

Petitioner She further contended also claimed that she had no power or authority to receive monies or funds. She claimed such power was vested with the Board of Regents (BOR) as a whole. Hence, Since it was not alleged in the information that it was among her functions or duties to receive funds, or that the crime was committed in connection with her official functions, the same is beyond the jurisdiction of the Sandiganbayan citing the case of *Soller v. Sandiganbayan*.^[11]

The Ombudsman opposed the motion.^[12] It disputed petitioner's interpretation of the law. Section 4(b) of Presidential Decree (P.D.) No. 1606 clearly contains the *catch -all phrase* "in relation to office," thus, the Sandiganbayan has jurisdiction over the charges against petitioner. In the same breath, the prosecution countered that the source of the money is a matter of defense. It should be threshed out during a full-blown trial.^[13]

According to the Ombudsman, petitioner, despite her protestations, iwas a public officer. As a member of the BOR, she had the general powers of administration and exerciseds the corporate powers of UP. Based on Mechem's definition of a public office, petitioner's stance that she was not compensated, hence, thus not a public officer, is erroneous. Compensation is not an essential part of public office. Parenthetically, compensation has been interpreted to include allowances. By this definition, petitioner was compensated.^[14]

Sandiganbayan Disposition

In a Resolution dated November 14, 2003, the Sandiganbayan denied petitioner's motion for lack of merit.^[15] It ratiocinated:

The focal point in controversy is the jurisdiction of the Sandiganbayan over this case.

It is extremely erroneous to hold that only criminal offenses covered by Chapter II, Section 2, Title VII, Book II of the Revised Penal Code are within the jurisdiction of this Court. As correctly pointed out by the prosecution, Section 4(b) of R.A. 8249 provides that the Sandiganbayan also has jurisdiction over other offenses committed by public officials and employees in relation to their office. From this provision, there is no single doubt that this Court has jurisdiction over the offense of estafa committed by a public official in relation to his office.

Accused-movant's claim that being merely a member in representation of

the student body, she was never a public officer since she never received any compensation nor does she fall under Salary Grade 27, is of no moment, in view of the express provision of Section 4 of Republic Act No. 8249 which provides:

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

(A) x x x

(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:*

x x x x

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

It is very clear from the aforequoted provision that the Sandiganbayan has original exclusive jurisdiction over all offenses involving the officials enumerated in subsection (g), irrespective of their salary grades, because the primordial consideration in the inclusion of these officials is the nature of their responsibilities and functions.

Is accused-movant included in the contemplated provision of law?

A meticulous review of the existing Charter of the University of the Philippines reveals that the Board of Regents, to which accused-movant belongs, exclusively exercises the general powers of administration and corporate powers in the university, such as: 1) To receive and appropriate to the ends specified by law such sums as may be provided by law for the support of the university; 2) To prescribe rules for its own government and to enact for the government of the university such general ordinances and regulations, not contrary to law, as are consistent with the purposes of the university; and 3) To appoint, on recommendation of the President of the University, professors, instructors, lecturers and other employees of the University; to fix their compensation, hours of service, and such other duties and conditions as it may deem proper; to grant to them in its discretion leave of absence under such regulations as it may promulgate, any other provisions of law to the contrary notwithstanding, and to remove them for cause after an investigation and hearing shall have been had.

It is well-established in corporation law that the corporation can act only through its board of directors, or board of trustees in the case of non-stock corporations. The board of directors or trustees, therefore, is the governing body of the corporation.

It is unmistakably evident that the Board of Regents of the University of

the Philippines is performing functions similar to those of the Board of Trustees of a non-stock corporation. This draws to fore the conclusion that being a member of such board, accused-movant undoubtedly falls within the category of public officials upon whom this Court is vested with original exclusive jurisdiction, regardless of the fact that she does not occupy a position classified as Salary Grade 27 or higher under the Compensation and Position Classification Act of 1989.

Finally, this court finds that accused-movant's contention that the same of P15 Million was received from former President Estrada and not from the coffers of the government, is a matter a defense that should be properly ventilated during the trial on the merits of this case.^[16]

On November 19, 2003, petitioner filed a motion for reconsideration.^[17] The motion was denied with finality in a Resolution dated February 4, 2004.^[18]

Issue

Petitioner is now before this Court, contending that "THE RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN NOT QUASHING THE INFORMATION AND DISMISING THE CASE NOTWITHSTANDING THAT IS HAS NO JURISDICTION OVER THE OFFENSE CHARGED IN THE INFORMATION."^[19]

In her discussion, she reiterates her four-fold argument below, namely: (a) the Sandiganbayan has no jurisdiction over *estafa*; (b) petitioner is not a public officer with Salary Grade 27 and she paid her tuition fees; (c) the offense charged was not committed in relation to her office; (d) the funds in question personally came from President Estrada, not from the government.

Our Ruling

The petition cannot be granted.

Preliminarily, the denial of a motion to quash is not correctible by certiorari.

We would ordinarily dismiss this petition for *certiorari* outright on procedural grounds. Well-established is the rule that when a motion to quash in a criminal case is denied, the remedy is not a petition for certiorari, but for petitioners to go to trial, without prejudice to reiterating the special defenses invoked in their motion to quash.^[20] Remedial measures as regards interlocutory orders, such as a motion to quash, are frowned upon and often dismissed.^[21] The evident reason for this rule is to avoid multiplicity of appeals in a single action.^[22]

In *Newsweek, Inc. v. Intermediate Appellate Court*,^[23] the Court clearly illustrated explained and illustrated the rule and the exceptions, thus:

As a general rule, an order denying a motion to dismiss is merely interlocutory and cannot be subject of appeal until final judgment or order is rendered. (Sec. 2 of Rule 41). The ordinary procedure to be