

SECOND DIVISION

[G.R. NO. 161640, December 09, 2005]

SAMSON B. BEDRUZ, GREGORIO M. MONREAL, AND EMMA C. LUNA, PETITIONERS, VS. THE HONORABLE SANDIGANBAYAN, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court filed by Samson B. Bedruz, Gregorio M. Monreal and Emma C. Luna seeking to reverse and set aside the Resolution^[1] of the *Sandiganbayan* dated February 24, 2003, which granted the motion of the Special Prosecutor for their suspension from office pending the trial of Criminal Case No. 26683 where the petitioners are the accused. Also assailed in this petition is the Resolution dated November 21, 2003 of the same tribunal denying the petitioners' motion for reconsideration.

Petitioner Bedruz is the Officer-in-Charge of the City Engineer's Office (CEO), petitioner Monreal is the City Assessor, while petitioner Luna is the City Administrator of Tagaytay City.

On April 6, 2000, the Spouses Yolanda and Jose Liongson filed a complaint before the Office of the Ombudsman, charging the petitioners together with CEO personnel Noel C. Baybay and Leonardo B. Olegario, and Col. Hernando Barba, head of the Tagaytay Office of Public Safety (TOPS) with violation of Republic Act (R.A.) No. 3019, the Anti-Graft and Corrupt Practices Act.

In their Complaint-Affidavit, the Liongsons alleged that they are the owners of three parcels of land located at Bo. Neogan, Tagaytay City, with a total area of 2,948 square meters, and designated as Lot Nos. 2542, 2543, and 8217, Cad-355. They averred that, sometime in November 1998, they applied for a building permit with the CEO of Tagaytay City for the construction of a residential house on the said property. The spouses narrated that, on July 13, 1999, a group of people from the said office, headed by the petitioners, Baybay, Olegario and Barba fenced the front and middle portions of the property using woven bamboo slats or *sawali*, without their knowledge and consent. Their son, Orland Liongson, and their caretaker objected to the intrusion. The fencing of the property practically shut off the points of ingress and egress thereto. The Liongson spouses attributed malicious intent on the part of the said government officials to force them out of their property by fencing the stairway leading to their house and the only water faucet in the property. They averred that the said persons showed bias in favoring Edgardo Peña, the representative of the spouses Reynaldo S. Suarez and Maria Lourdes Suarez who are claiming interest over the said property.^[2]

The petitioners, Baybay, Olegario, and Barba filed a Joint Counter-Affidavit denying

the imputations against them. They averred in sum that the Suarez spouses, through their attorney-in-fact, Edgardo Peña, applied for a fencing permit before the CEO. They asserted that the applicants, through Peña, presented their title and tax declaration on the subject property and complied with all the requirements; hence, petitioner Bedruz and petitioner Luna granted the application and issued Fencing Permit No. 23-99-55808 to them. According to them, sometime in July 1999, the spouses Suarez, through Peña, scheduled the actual fencing work and requested assistance to maintain peace and order. Barba, together with TOPS and Philippine National Police personnel, rendered assistance by proceeding to the area and explaining the situation to the Liongsons' caretaker. The Liongsons' representatives were duly informed that the purpose of Barba's presence was to maintain peace and order.^[3]

The petitioners, Baybay, Olegario, and Barba clarified that the persons who did the actual fencing in the property were private individuals engaged by Peña. They maintained that the petitioners, Baybay and Olegario took no part in the alleged illegal fencing work on the property and they were not present at the subject area at any given time during the assailed activity. Their only participation was limited to the processing and signing of the fencing permit in their official capacity.^[4]

In their Reply, the Liongsons assailed the application and approval of the fencing permit issued by the petitioners, Baybay, Olegario, and Barba to the Suarez spouses which only took about a month of processing. In contrast, their application for a building permit was never acted upon after it was filed sometime in November 1998 despite payment of the required fees which they gave to Engr. Narciso Yamat, City Engineer, in the presence of the petitioners who were inside the CEO at that time. Nonetheless, no permit has been issued. Petitioners refused to divulge the whereabouts of Yamat and the documents relative to their permit application were missing.^[5]

After the preliminary investigation, the Graft Investigation Officer issued a Resolution recommending that the petitioners be prosecuted for violation of Section 3(e)^[6] of R.A. No. 3019 while the complaint against Yamat, Baybay, Olegario and Barba be dismissed for want of probable cause. The Ombudsman approved the recommendation. An Information was filed before the *Sandiganbayan* on June 28, 2001, thus:

That on or about 10 June 1999, sometime prior or subsequent thereto, in the City of Tagaytay, Philippines, and within the jurisdiction of this Honorable Court, accused SAMSON B. BEDRUZ and EMMA C. LUNA, and GREGORIO C. MONREAL, all are public officers, being then the City Engineer and City Administrator, and City Assessor, respectively, while in the performance of their official functions, committing the offense in relation to their office, and taking advantage of their official functions, acting with manifest partiality and evident bad faith, did then and there willfully, unlawfully and criminally process, sign and approve the fencing permit application of Spouses Reynaldo and Ma. Lourdes Suarez, through Attorney-in-Fact, Edgardo Pena, inspite of the blatant defects on the documents submitted, thereby giving unwarranted benefits to Spouses Suarez, to the damage and prejudice of private parties, Spouses Liongson.^[7]

The case was docketed as Criminal Case No. 26683. On July 16, 2001, the petitioners filed a motion for partial reconsideration of the Ombudsman's Resolution finding probable cause. On August 7, 2001, they filed with the *Sandiganbayan* a Motion for Reinvestigation alleging that their motion for partial reconsideration was still pending with the Ombudsman and that they had meritorious defenses.^[8] Finding merit in the said motion, the *Sandiganbayan* granted the motion and directed the Ombudsman to conduct a reinvestigation.^[9]

On February 28, 2002, Ombudsman Prosecutor Eusebio M. Avila, Sr. submitted his reinvestigation report recommending that the previous finding of a probable cause against the petitioners be sustained. The Ombudsman approved this recommendation.^[10]

During the arraignment of the petitioners, they pleaded not guilty to the charge.^[11] Thereafter, the Special Prosecutor filed a Motion to Suspend Accused *Pendente Lite*,^[12] which was set for hearing on May 13, 2002. During the hearing, petitioners, through counsel, appeared and prayed the Sandiganbayan to grant them a period of fifteen (15) days within which to file their Opposition to the motion. The petitioners agreed to submit the motion for resolution upon the filing of the Comment/Opposition. The *Sandiganbayan* granted the motion. The petitioners subsequently filed an Opposition to the motion on the ground that the acts charged clearly do not constitute a violation of R.A. No. 3019. However, they also alleged that a pre-suspension hearing must first be conducted to test the credibility of the Information conformably with the ruling of this Court in *People v. Albano*.^[13] On June 21, 2002, the Special Prosecutor filed a Manifestation praying that his motion to suspend the petitioners be considered submitted for resolution.^[14] The petitioners did not oppose the manifestation.

In a Resolution dated February 24, 2003, the *Sandiganbayan* granted the motion of the Special Prosecutor and ordered the suspension of the petitioners from office:

WHEREFORE, the instant motion is GRANTED and the Court hereby orders the suspension *pendente lite* of SAMSON B. BEDRUZ, EMMA C. LUNA and GREGORIO M. MONREAL from their position as City Engineer, City Administrator and City Assessor respectively, of Tagaytay City and from any other position they may now or hereafter be holding for a period of ninety (90) days.

Let a copy of this Resolution be furnished to the Honorable Mayor of Tagaytay City for the implementation of the suspension order.

The said official shall inform this court of any action taken thereon within ten (10) days from receipt thereof.

The said official or his duly authorized representative shall advise this court of the date of the actual implementation of the suspension of the accused as well as the expiry of the ninetieth day hereof so that the same may be lifted at the proper time.

SO ORDERED.^[15]

The *Sandiganbayan* declared that the Information filed against the accused was valid as it contained all the elements of the crime charged in accordance with Section 6, Rule 110 of the Rules of Court. The *Sandiganbayan* also declared that by pleading not guilty thereto, the petitioners had impliedly acquiesced to its validity. In addition, the *Sandiganbayan* ruled that there was no need for a pre-suspension hearing considering that the petitioners had been given ample opportunity to argue against their suspension.^[16]

The petitioners moved to reconsider the *Sandiganbayan's* resolution but on November 21, 2003, the latter denied the motion and reiterated its previous ruling that there was no need for it to conduct a pre-suspension hearing. It ratiocinated that the hearing on the prosecution's Motion to Suspend Accused *Pendente Lite*, which was vigorously opposed by the accused, was sufficient compliance with the requisite pre-suspension hearing.^[17]

In this case, the petitioners aver that the *Sandiganbayan* committed grave abuse of discretion amounting to excess or lack of jurisdiction in granting the motion of the Special Prosecutor for their mandatory suspension without setting said motion anew for hearing.

The petitioners assert that there was no basis for their suspension *pendente lite* as the acts with which the petitioners are being charged do not constitute a violation of the anti-graft law. Contrary to the allegations in the Information, they did not act with partiality and bad faith, or gave unwarranted benefits to the Suarezes, in approving the latter's fencing permit application as it was supported with an indefeasible title and the Suarezes have fully complied with all the requirements. They point out that in support of their application, the Suarezes submitted Transfer Certificate of Title (TCT) No. T-21997, Tax Declaration No. 98-002-0127, *Pahintulot ng Punong Barangay*, and a Certification from the City Planning and Development Office. Neither can it be said that the Liongsons suffered damage and prejudice when they approved the fencing permit application considering that they are not the registered owners of the property. As opposed to the Suarezes, the Liongsons submitted only a Deed of Absolute Sale over a property, with a technical description different from that contained in TCT No. T-21997.^[18]

Moreover, no pre-suspension hearing was conducted before the prosecution's Motion to Suspend Accused *Pendente Lite* was granted. The petitioners maintain that this is contrary to the pronouncement of the Court in *People v. Albano*^[19] that before a suspension order can be issued, a hearing on the validity of the information must first be held. They argue that, in light of the indefeasible title of the Suarezes over the property and absence of a single piece of evidence that the fenced property is not owned by the Suarezes, the *Sandiganbayan* should have denied the motion for suspension *pendente lite*.^[20]

The respondent, through the Office of the Special Prosecutor, stresses that what is contemplated by the requisite pre-suspension hearing is that the accused be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him. The requirement is considered complied with when the accused is heard on the matter through the various pleadings he filed. In this case, the petitioners have filed before the Office of the Ombudsman a Motion for Reconsideration of the resolution finding probable cause against them. It was

followed by a Motion for Reinvestigation, which was granted by the *Sandiganbayan*. When the Office of the Ombudsman maintained its earlier finding of probable cause, the petitioners allowed themselves to be arraigned, thereby putting the issue of the validity of the Information to rest. In addition, they filed an Opposition to the prosecution's Motion to Suspend Accused *Pendente Lite*. And when the motion was granted, the petitioners also filed a Motion for Reconsideration of the resolution.^[21]

The respondent adds that the matters raised by the petitioners as to the indefeasibility of the title of the Suarezes as well as the absence of evidence that the fenced property was not owned by them are matters completely extraneous in the determination of the validity of the Information. It points out that it is not required that the guilt of the petitioners be established in a pre-suspension proceeding. With their arraignment, the petitioners cannot now probe into the validity of the Information filed against them. In any case, the respondent maintains the findings of the Office of the Ombudsman that bad faith and manifest partiality attended the issuance of the fencing permit to the Suarezes.^[22]

The petition is bereft of merit.

A writ of *certiorari* issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction.^[23] "*Grave abuse of discretion*" implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility which must be so patent and gross as to amount to an invasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law—mere abuse of discretion is not enough.^[24]

In this case, the petitioners failed to establish that the *Sandiganbayan* acted with grave abuse of discretion in granting the motion of the Special Prosecutor to suspend *pendente lite* the petitioners.

The assailed Resolution of the *Sandiganbayan* granting the motion of the Special Prosecutor for the suspension *pendente lite* of the petitioners, reads:

After considering the arguments of both parties in connection with the prosecution's "Motion to Suspend Accused Pendente Lite," this Court found that the records of the instant case did not show that the proceedings leading to the filing of the information against the accused were tainted with any irregularity so as to invalidate the same. Likewise, the allegations contained in the said information meet the essential elements of the offense as defined under Sec. 3 (e) of Republic Act 3019.

Indeed, the accused had already been given a fair and adequate opportunity to ventilate and argue their position against the issuance of the questioned suspension order. In *Santiago v. Sandiganbayan*, 356 SCRA 636, the Supreme Court held that there was no hard and fast rule as to the conduct of the "pre-suspension hearing" and that it was sufficient "that the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against