

SECOND DIVISION

[G. R. No. 153666, December 27, 2002]

**DIONISIO L. TORRES AND ENRICO M. ALVAREZ, PETITIONERS,
VS. HON. FRANCIS F. GARCHITORENA, HON. CATALINO R.
CASTANEDA AND HON. GREGORY S. ONG (IN THEIR CAPACITIES
AS CHAIRMAN AND MEMBERS, RESPECTIVELY OF THE FIRST
DIVISION OF THE SANDIGANBAYAN) SUSANA REALTY, INC. AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

Before the Court is a petition for *certiorari* with a plea for preliminary injunction or temporary restraining order under Rule 65 of the 1997 Rules of Civil Procedure, as amended, filed with the Court on June 11, 2002 for the nullification of the following resolutions of the Sandiganbayan, to wit:

1. Resolution dated January 7, 2002 denying petitioners' *omnibus* motion to quash the Information and/or to suspend trial (with opposition to motion to suspend accused *pendete lite*) in SB Criminal Case No. 24864;^[1]
2. Resolution dated March 20, 2002 preventively suspending petitioners for a maximum of ninety (90) days;^[2]
3. Resolution dated April 4, 2002 denying petitioners' motion for reconsideration of the January 7, 2002 Resolution;^[3] and
4. Resolution dated May 22, 2002 denying petitioners' motion for reconsideration of the April 4, 2002 Resolution.^[4]

The antecedent facts are as follows:

Susana Realty, Incorporated (SRI for brevity) is the registered owner of two (2) parcels of land located at Noveleta, Cavite, covered by Transfer Certificate of Title Nos. (T-5344) RT-19732^[5] and (T-5345) RT-19733^[6] issued on May 15, 1952. The said titles cancelled Original Certificate of Title Nos. 2320 and 137 in 1934 and 1911, respectively. These parcels of land are adjacent to the sea and over time portions thereof were submerged by sea water. SRI installed Domingo Fernandez as its caretaker on the property.

On October 10, 1997, Mayor Dionisio Torres of Noveleta, Cavite caused the leveling and reclamation of the submerged portion of SRI's property for the relocation of displaced squatters from Tirona, Cavite who were living along river banks and esteros. Domingo Fernandez protested to the Mayor informing him that his employer owned the property being levelled and reclaimed at the instance of the Mayor.

However, the latter ignored the protests of Fernandez and continued with the leveling and reclamation of the property. On October 16, 1997, representatives of SRI conferred with the Mayor and furnished him with copies of its titles over the property. The SRI had the property surveyed to confirm that the portions of the land reclaimed by the Mayor were within the perimeter of its titled property. On October 27, 1997, SRI sent a letter^[7] to the Mayor formally protesting the leveling and reclamation of the submerged portion of its property and demanding that the Mayor desist from continuing with said reclamation. On October 31, 1997, the Mayor and representatives of SRI had a conference during which the Mayor informed SRI that he had already spent P1,000,000.00 for the reclamation and offered to help SRI in connection with its other projects in Cavite provided that SRI will no longer file the suit to enjoin the reclamation. SRI requested for the deferment of the reclamation project until November 7, 1997 to enable it to study the offer of the Mayor. However, SRI learned that in the interim, five families of squatters had already occupied portions of the reclaimed area; and that more squatters were due to arrive.

On January 7, 1998, SRI filed a petition^[8] with the Regional Trial Court for prohibition with a plea for injunctive relief against the Mayor, the Municipal Building Official and Municipal Engineer Enrico Alvarez to enjoin them from reclaiming and leveling the property and for damages and attorney's fees. The case was docketed as Special Civil Case No. N-6639. In their Answer to the petition, Torres and Alvarez alleged inter alia that they were not aware that the subject property was titled in the name of SRI and that the records of the Assessor's Office failed to show that the property had been declared for taxation purposes under the name of SRI. The Mayor insisted that SRI abandoned the property^[9] and justified his acts on the ground that the reclamation of the property was for the socialized housing program of his constituents.

On April 16, 1998, SRI filed with the Ombudsman a criminal complaint against Torres and Alvarez for violation of Section 3(e) of Republic Act 3019 (the Anti-Graft and Corrupt Practices Act). After due preliminary investigation, the Ombudsman found probable cause against the two for violation of said law. He filed with the Sandiganbayan an Information dated August 27, 1998 for violation of Section 3(e) of Republic Act 3019 which reads:

Undersigned Graft Investigation Officer II of the Office of the Deputy Ombudsman for Luzon, hereby accuses MAYOR DIONISIO TORRES and MUNICIPAL ENGINEER ENRICO M. ALVAREZ, of violation of Section 3(e) of R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, committed as follows:

That on or about October 10, 1997, or sometime prior or subsequent thereto, in the Municipality of Noveleta, Province of Cavite, Philippines and within the jurisdiction of the Honorable Court, above-named accused DIONISIO TORRES and ENRICO M. ALVAREZ, public officers being then the Municipal Mayor and Municipal Engineer, respectively of Noveleta, Cavite, committing the crime herein charged in relation to and taking advantage of their official functions and through evident bad faith and gross inexcusable negligence, did then and there wilfully, unlawfully and feloniously cause the filling up of a submerged portion of a lot owned by and

registered in the name of Susana Realty Corp., without first verifying the existence of its owner and despite showing proof of its ownership, with the intention to reclaim it for the municipality's housing program to the damage and prejudice of the registered owner as squatters now occupy the area.

CONTRARY TO LAW.^[10]

The case was docketed as Criminal Case No. 24864.

On September 1, 1998, the Republic of the Philippines, through the Solicitor General, filed with the Regional Trial Court (RTC) of Cavite City a complaint against SRI and the Register of Deeds of Cavite for the reversion of the property covered by Transfer Certificate of Title Nos. 5344 and 5345 issued in favor of SRI. The case was docketed as Civil Case No. 7160. The Republic alleged *inter alia* that said property had been ascertained by the Department of Environment and Natural Resources (DENR) as part of the Manila Bay per Classification Map 2736 dated February 21, 1972. Hence, it formed part of the inalienable mass of the public domain owned by the State. The Republic prayed that after due proceedings judgment be rendered in its favor, thus:

WHEREFORE, it is respectfully prayed that, after trial, this Honorable Court render judgment:

1. Declaring the reversion of the subject parcels of land into mass of inalienable public domain;
2. Ordering the Register of Deeds to cancel any existing title over the said properties;
3. Enjoining the Register of Deeds from issuing any title over the subject properties.

Such other reliefs just and equitable under the premises are likewise prayed for.^[11]

In the meantime, negotiations for an amicable settlement ensued. Torres wrote a letter to SRI dated March 3, 1999 offering to acquire a portion of the reclaimed area with an area of 350 square meters at the price of P100.00 per square meter, excluding the 260-square meter portion of the property developed as a road right of way, without prejudice to the outcome of the prohibition case filed by SRI.^[12] However, no settlement materialized between the parties. Torres and Alvarez filed with the Office of the Ombudsman a motion for reinvestigation of Criminal Case No. 24864 but the Ombudsman issued a Resolution dated January 5, 2001 denying said motion. Earlier, Torres and Alvarez filed with the Sandiganbayan a motion dated December 23, 2000 for the suspension of the proceedings in said criminal case on the ground of the existence of a prejudicial question in Civil Case No. 7160. On January 15, 2001, the Sandiganbayan issued a Resolution denying the motion for suspension of the proceedings. Upon receipt of said resolution, Torres and Alvarez filed with the Sandiganbayan a motion for a reconsideration thereof. However, on March 9, 2001, the Sandiganbayan issued a resolution denying their motion for reconsideration.

Torres and Alvarez forthwith filed a petition for certiorari on April 25, 2001 with this Court for the nullification of the March 9, 2001 Resolution of the Sandiganbayan. The case was docketed as G.R. No. 147726. On May 16, 2001, the Court issued a Resolution dismissing the petition for certiorari. On June 1, 2001, Torres and Alvarez filed with the Sandiganbayan another motion to suspend the proceedings in Criminal Case No. 24864 on the ground of the existence of a prejudicial question, namely, the pendency of Civil Case No. 7160, but the court denied said motion in open court on August 1, 2001. The Sandiganbayan proceeded with the arraignment of Torres and Alvarez. Both entered a plea of not guilty.

The prosecution in Criminal Case No. 24864 filed a motion with the Sandiganbayan for the mandatory suspension *pendente lite* of Torres and Alvarez. On September 13, 2001, the two filed an omnibus motion for the quashal of the information on the ground that the facts alleged therein do not constitute the offense of violation of Section 3(e) of R.A. 3019 and hence, there was no legal basis for their suspension from office *pendente lite*. They further prayed that should their motion to quash the information be denied, the criminal proceedings be suspended on the ground of the existence of a prejudicial question in Civil Case No. 7160. Torres and Alvarez claimed that the issue in Civil Case No. 7160 for reversion filed by the State constituted a prejudicial question under Sections 6 and 7, Rule 111 of the Rules of Criminal Procedures, as amended, warranting the suspension of the proceedings in Criminal Case No. 24864.^[13] The prosecution opposed the omnibus motion of Torres and Alvarez. On January 7, 2002, the Sandiganbayan issued a Resolution denying the motion to quash filed by Torres and Alvarez.^[14] The latter filed a motion for reconsideration of said resolution dated January 27, 2002 but the Sandiganbayan issued a Resolution dated April 21, 2002 denying said motion.^[15]

Earlier, the Court issued a Resolution dated March 20, 2002 granting the motion of the prosecution for the suspension of Torres and Alvarez *pendente lite*. Torres and Alvarez filed a motion for the reconsideration of the March 20, 2002 resolution. On May 22, 2002, the Court issued a Resolution denying the motion of Torres and Alvarez.

Hence, this petition.

Torres and Alvarez (petitioners, for brevity) allege that:

- A. THE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONERS' MOTION TO QUASH THE INFORMATION DESPITE SUBSTANTIAL EVIDENCE SHOWING THAT THERE IS NO SUFFICIENT BASIS, IN FACT AND IN LAW, TO CHARGE PETITIONERS OF VIOLATING SEC. 3(E) OF THE ANTI-GRAFT AND CORRUPT PRACTICES ACT (R.A. 3019).
- B. THE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONERS' MOTION TO SUSPEND FURTHER PROCEEDINGS DESPITE SUBSTANTIAL EVIDENCE SHOWING THAT ALL THE ELEMENTS FOR A PREJUDICIAL QUESTION ARE PRESENT IN THIS CASE.
- C. THE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT THE DEFENSES RAISED BY THE PETITIONERS ARE EVIDENTIARY MATTERS THAT

SHOULD BE PROPERLY RAISED DURING THE TRIAL PROPER DESPITE SUBSTANTIAL EVIDENCE TO THE CONTRARY.

D. THE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN GRANTING THE PROSECUTION'S REQUEST FOR THE SUSPENSION PENDENTE LITE OF THE PETITIONERS DESPITE SUBSTANTIAL EVIDENCE SHOWING THAT THERE IS NO SUFFICIENT BASIS, IN FACT AND IN LAW, FOR SUCH SUSPENSION.^[16]

Petitioners aver that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying their motion to quash the information on their claim that the material averments contained therein do not constitute the offense of violation of Section 3(e) of Republic Act 3019. They insist that the information specifically alleges that the submerged portion of private respondent's titled property is actually part of the foreshore area of Noveleta, Cavite as alleged in the complaint for reversion of the Republic of the Philippines in Civil Case No. 7160 filed with the RTC against respondent SRI. The Republic's claim in said civil case is based on the Verification of Status of Land issued by the DENR stating that the property forms part of the public domain. Petitioners likewise argue that even if inceptually, the submerged portion was indeed SRI's property, the same became part of the shore and of the public domain, as a consequence of its invasion by the sea. This natural phenomenon is a *de facto* case of eminent domain and not subject to indemnity. Petitioners further contend that since the material allegations in the information do not constitute the offense of violation of Section 3(e) of R.A. 3019, there is no legal basis for their suspension from office *pendente lite*. Moreover, since SRI is not the owner of the submerged portion of its titled property, it has no proprietary interest over the same and hence cannot be deemed to have sustained any damage or injury by reason of the reclamation of subject property an element of the crime penalized by Section 3(e) of R.A. 3019.

For its part, the Sandiganbayan ruled under its assailed Resolutions that the precise nature of the subject property is a factual issue which should properly be ventilated during trial of the criminal case on its merits; hence, a motion to quash the information on the ground that the material averments thereof do not constitute a violation of Section 3(e) of R.A. 3019 is improper. Furthermore, the petitioners had already been arraigned before they filed their motion to quash. Thus, the quashal of the information could no longer be made.

SRI on the other hand insists that the submerged area forms part of its private property, and that petitioner Torres is estopped from claiming that said area is foreshore land because in his letter to SRI dated March 3, 1999, Torres offered to buy a portion of the submerged area, thus implicitly recognizing that said area belongs to SRI.

The contention of petitioners has no merit.

Case law has it that a resolution of the Sandiganbayan denying a motion to quash the information is an interlocutory order and hence, not appealable. Nor can it be the subject of certiorari. The remedy available to petitioners after their motion to quash was denied by the Sandiganbayan was to proceed with the trial of the case, without prejudice to their right to raise the question on appeal if final judgment is rendered against them.^[17] Moreover, the petitioners failed to prove that the