

SECOND DIVISION

[G.R. Nos. 116259-60, February 20, 1996]

**SALVADOR P. SOCRATES, PETITIONER, VS. SANDIGANBAYAN,
THIRD DIVISION, AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

REGALADO, J.:

Before us are two consolidated original actions for certiorari and prohibition filed by petitioner Salvador P. Socrates assailing the orders and resolution issued by respondent Sandiganbayan in Criminal Cases Nos. 18027 and 18028, both entitled "People of the Philippines vs. Salvador P. Socrates." In G.R. Nos. 116259-60, petitioner assails the legality of (a) the order dated February 9, 1994 denying petitioner's Amended and Consolidated Motion to Quash the Informations;^[1] (b) the order dated May 24, 1994 denying the Motion for Reconsideration and/or Reinvestigation;^[2] and (c) the order dated July 20, 1994 denying the Motion for Partial Reconsideration of the Order of May 24, 1994.^[3] On the other hand, in G.R. Nos. 118896-97 petitioner seeks the annulment of the Resolution dated December 23, 1994^[4] ordering the preventive suspension of petitioner as Provincial Governor of Palawan for a period of ninety (90) days, and to enjoin respondent court from enforcing the same.

The antecedent facts, as may be culled from the Comment filed by the Solicitor General in G.R. Nos. 116259-60, are as follows:

Petitioner who is the incumbent governor of Palawan, was first elected governor of the said province in 1968 and was again reelected in both the 1971 and 1980 elections, until he was replaced by private complainant Victoriano Rodriguez as Officer-In-Charge Governor after the EDSA Revolution in February 1986. Subsequently, both petitioner and Rodriguez ran for governor in the 1988 elections where the latter emerged victorious. In the 1992 synchronized national and local elections, the two again contested the gubernatorial post; and this time, it was petitioner who won.

Meanwhile, at the time Rodriguez was still the OIC Governor of the province, the Provincial Government of Palawan, as represented by Rodriguez and the Provincial Board Members of Palawan, filed before the Office of the Tanodbayan two (2) complaints both dated December 5, 1986 and docketed as TBP No. 86-01119. The first complaint charged petitioner with violation of Section 3(b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, and the second charged petitioner, together with several other provincial officers,

with violation of Section 3(a) and (g) of the same law (Annexes "A" & "A-I", respectively, Petition).

Instead of filing a counter-affidavit as directed, petitioner filed a Motion to Suspend Preliminary investigation dated September 3, 1987 on the ground that upon the ratification of the 1987 Constitution, the present Tanodbayan has been transformed into the Office of the Special Prosecutor and has, therefore, lost his power to conduct preliminary investigation (Annex "C", *ibid.*).

In a letter to the Honorable Tanodbayan dated June 23, 1988, however, Nelia Yap-Fernandez, the Deputized Tanodbayan Prosecutor from the Office of the City Prosecutor of Puerto Princesa City, requested that she be allowed to inhibit herself from handling the preliminary investigation of the present case considering that petitioner appears to be her co-principal sponsor in a wedding ceremony held last May 28, 1988 (Annex "C-3", *ibid.*).

On January 16, 1989, the Office of the Ombudsman received a letter from Rodriguez, who was then the incumbent governor of the province, inquiring about the present status of TBP No. 86-01 119 (Annex "D", *ibid.*). In its 4th Indorsement dated February 7, 1989, the Ombudsman referred the matter of continuing and terminating the investigation of the present case to the newly deputized Tanodbayan Prosecutor, Sesinio Belen from the Office of the Provincial Prosecutor (Annex "D-1", *ibid.*). However, the latter, in his 5th Indorsement dated February 27, 1989 to the Ombudsman, requested that the present case be reassigned to another Prosecutor considering that he is a long time close friend and "compadre" of petitioner and that one of the complainants therein Eustaquio Gacott, Jr., who was formerly a member of the Sangguniang Panlalawigan, is now the Provincial Prosecutor of Palawan, his present superior (Annex "D-2", *ibid.*).

On April 25, 1989, petitioner was directed by the Ombudsman to comment on the letter-manifestation dated April 4, 1989 filed by Rodriguez requesting that an amendment be effected on certain portions of the present complaint (Annexes "E" & "E-2", *ibid.*). No comment having been received by the Ombudsman as of May 24, 1989, petitioner, on an even date, was again directed to comment thereon (Annex "E-1", *ibid.*). Finally, petitioner filed his required comment dated June 2, 1989 (Annex "E-3", *ibid.*).

Based on the Resolution dated August 27, 1992 of Special Prosecution Officer I Wendell Barreras-Sulit (Annex "F-2", *ibid.*), which affirmed the Resolution dated February 21, 1992 rendered by Ombudsman Investigator Ernesto Nocos recommending the filing of appropriate charges against petitioner, the Office of the Special Prosecutor filed on September 16, 1992 with the respondent Court two (2) Informations against petitioner, docketed as Criminal Cases Nos. 18027 and 18028. The first was for violation of Section 3(h) of Republic Act No. 3019, and the second for violation of Section 3(e) of the same law (Annexes "F" & "F-1", *ibid.*).

Before his arraignment could be set, petitioner initially filed an "Urgent Motion for Quashal of Information and/or Reinvestigation in the Light of Supervening Facts." However, when the said motion was subsequently called for hearing, petitioner's counsel was made to choose which of the aforesaid two (2) conflicting motions he preferred to take up with respondent Court. Thus, on January 18, 1993, petitioner filed an "Amended and Consolidated Motion to Quash the Information in the Above-entitled Cases." After an Opposition and a Reply were filed by the prosecution and petitioner, respectively, respondent court issued its first assailed Resolution on February 9, 1994, denying the same (Annex "G", *ibid.*).

On March 15, 1994, petitioner filed a Motion for Reconsideration and/or Reinvestigation, which was subsequently denied by respondent court in its second assailed Resolution issued on May 24, 1992 (Annex "H-1", *ibid.*).^[5]

Petitioner then filed a petition for certiorari and prohibition, docketed as G.R. Nos. 116259-60, challenging the aforementioned orders of the Sandiganbayan for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. It was likewise prayed that respondent court be enjoined from taking cognizance of and from proceeding with the arraignment of petitioner and the trial and hearing of Criminal Cases Nos. 18027-28 pending before it. Respondents thereafter filed their Comment to which a Reply was submitted by petitioner.

In the meantime, no temporary restraining order having been issued by this Court in G.R. Nos. 116259-60, respondent court proceeded with the arraignment of herein petitioner on October 5, 1994 wherein a plea of not guilty was entered for him by the court after he refused to do so. Thereafter, with the denial of petitioner's motion to quash the informations, the prosecution filed on October 11, 1994 before respondent court a Motion to Suspend Accused *Pendente Lite*^[6] pursuant to Section 13 of Republic Act No. 3019. Petitioner opposed said motion on the ground that the validity of the informations filed against him is still pending review before the Supreme Court. He further contended therein that Section 13 of Republic Act No. 3019, on which the motion to suspend is based, is unconstitutional in that it constitutes an undue delegation of executive power and is arbitrary and discriminatory.

In view of the filing of the motion for his suspension, petitioner filed on October 14, 1994 in G.R. Nos. 116259-60 a Supplemental Petition^[7] questioning the veracity of and seeking to restrain respondent court from acting on said motion to suspend *pendente lite*, the hearing of which was scheduled on October 17, 1994. However, before respondents could file their comment thereto as required by this Court, petitioner, who initially sought the holding in abeyance of further action on his supplemental petition until after respondent court shall have resolved the motion to suspend *pendente lite*, eventually decided to withdraw the same purportedly in order not to delay the disposition of the main petition. Hence, on January 16, 1995, this Court issued a resolution^[8] granting the motion to withdraw the supplemental

petition and considering the petition in G.R. Nos. 116259-60 as submitted for resolution.

In the interim, petitioner filed before respondent court on November 28, 1994 an amended motion to include as co-principals: (a) in Criminal Case No. 18028, the members of the Sangguniang Panlalawigan who authorized the purchase and repair of the vessel in question; and (b) in Criminal Case No. 18027, the Board of Directors of ERA Technology and Resources Corporation which entered into a contract with the Province of Palawan.^[9] Petitioner argued that the non-inclusion of these co-principals violates his right to due process and equal protection of the laws which thus rendered the informations null and void. It appears that the prosecution did not oppose nor object to this amended motion.

On December 23, 1994, respondent court, without ruling on petitioner's motion to include co-principals, issued its questioned resolution granting the motion to suspend *pendente lite* and ordering the suspension of petitioner as Provincial Governor of Palawan for a period of ninety (90) days from notice.

His motion for the reconsideration thereof having been denied, another petition for certiorari and prohibition with prayer for a restraining order was filed by petitioner on February 20, 1995 against the same respondents, docketed as G.R. Nos. 118896-97, and which seeks to annul as well as to enjoin respondent court from enforcing its resolution dated December 23, 1994 ordering his suspension *pendente lite*. On March 8, 1995, the Court resolved to consolidate this second petition with G.R. Nos. 116259-60.

From the mosaic of the foregoing events and the incidents interjected therein, the following pattern of contentious issues has emerged:

In G.R. Nos. 116259-60, the validity of the informations filed in Criminal Cases Nos. 18027-28 is being contested on three grounds, viz.: (1) the respondent court did not acquire jurisdiction over the case on the ground that an inordinate delay of six (6) years between the conduct of the preliminary investigation and the subsequent filing of the informations against petitioner constitutes a violation of his constitutional rights to a speedy disposition of the case and due process of law pursuant to the *Tatad* doctrine; (2) the facts charged do not constitute an offense; and (3) since the acts charged in the complaints filed before the Tanodbayan are different from the charges contained in the informations, another preliminary investigation should have been conducted, in the absence of which there is a denial of due process.

In G.R. Nos. 118896-97, petitioner questions the validity of the suspension order in that: (1) he may not be suspended while the issue on the validity of the informations filed against him is still pending review before the Supreme Court; and (2) Section 13 of Republic Act No. 3019, which forms the basis of the order of suspension, is unconstitutional on the ground that it constitutes an undue delegation of the authority to suspend which is essentially an executive power. Petitioner contends that the jurisprudential doctrines relied upon by respondent court in upholding the constitutionality of Section 13 are not applicable to the cases at bar which involve an issue not yet passed upon by this Court. In addition, petitioner again attacks the legality of the subject informations for having been filed in violation of the due process and equal protection clauses by reason of the non-

inclusion therein, as co-principals, of the members of the Sangguniang Panlalawigan who approved the purchase of the vessel, as well as the board of directors of **ERA** Technology and Resource Corporation which entered into a contract with the Province of Palawan.

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1. In asserting that there was a violation of his right to a speedy trial by reason of the unreasonable delay of six (6) years between the conduct of the preliminary investigation and the filing of the informations, petitioner invokes the doctrine laid down in the leading case of *Tatad vs. Sandiganbayan, et al.*^[10] In said case, all the affidavits and counter-affidavits had already been filed with the Tanodbayan for final disposition as of October 25, 1982 but it was only on June 12, 1985, or three (3) years thereafter, that the informations accusing *Tatad* of a violation of Republic Act No. 3019 were filed before the Sandiganbayan. The Court held there that an inordinate delay of three (3) years in the conduct and termination of the preliminary investigation is violative of the constitutional rights of the accused to due process and speedy disposition of his case, by reason of which the informations filed against the accused therein were ordered dismissed. It must be emphasized, however, that in the **Tatad** case, no explanation or ratiocination was advanced by the prosecution therein as to the cause of the delay.

In the present case, as distinguished from the factual milieu obtaining in *Tatad*, respondent court found that the six-year delay in the termination of the preliminary investigation was caused by petitioner's own acts. Thus:

In the cases at bar, the record shows that delay in the filing of the Informations in these cases was caused, not by inaction of the prosecution, but by the following actuations of the accused:

(1) Sometime after the complaint of private complainant was filed with the Office of the City Fiscal of the City of Puerto Princesa, preliminary investigation was held in abeyance on account of the motion of accused Salvador P. Socrates, entitled "Motion to Suspend Preliminary Investigation." Suspension was prayed for until an Ombudsman, as provided in Executive Order No. 243, shall have been appointed;

(2) Preliminary investigation was interrupted when private complainant, then Governor Victoriano J. Rodriguez, filed on April 24, 1989, a letter-manifestation correcting the complaint;

(3) Only on September 22, 1989 did the accused in these cases file with the Office of the Ombudsman a reply to complainant's manifestation;

(4) In view of the foregoing actuations of the parties, preliminary investigation of these cases was started in earnest only on June 25, 1990. Respondents then, including the accused herein, were required to submit counter-affidavits;

(5) Interrupting preliminary proceedings again, accused Governor Salvador P. Socrates, on August 13, 1990, filed a motion to dismiss the