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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LUCENA D. DEMAALA, *Petitioner,*	**G.R. No. 173523**
	Present:
- versus -	CARPIO, *Chairperson,* DEL CASTILLO, PEREZ, REYES,* *and* LEONEN,** *JJ.*
SANDIGANBAYAN (Third Division) and OMBUDSMAN, *Respondents.*	Promulgated: FEB 19 2014

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DECISION

DEL CASTILLO, *J.*:

Where a party was afforded the opportunity to participate in the proceedings, yet he failed to do so, he cannot be allowed later on to claim that he was deprived of his day in court.

This Petition for *Certiorari* With Urgent Motion For Preliminary Injunction And Prayer For Temporary Restraining Order[1] assails the May 23, 2006 Resolution[2] of the *Sandiganbayan*, Third Division, in Criminal Case Nos. 27208, 27210, 27212, 27214, 27216-27219, and 27223-27228, which denied petitioner's Motion for Reconsideration of the February 9, 2006 Resolution[3] ordering her suspension *pendente lite* as Mayor of Narra, Palawan.

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* Per Special Order No. 1633 dated February 17, 2014.
** Per Special Order No. 1636 dated February 17, 2014.
1 *Rollo*, pp. 3-8 .
2 Id. at 35-38; penned by Associate Justice Godofredo L. Legaspi and concurred in by Associate Justices Efren N. de la Cruz and Norberto Y. Geraldez, Sr.
3 Id. at 19-24.

Factual Antecedents

Petitioner Lucena D. Demaala is the Municipal Mayor of Narra, Palawan, and is the accused in Criminal Case Nos. 27208, 27210, 27212, 27214, 27216-27219, and 27223-27228 for violations of Section 3(h) of Republic Act No. 3019[4] (RA 3019), which cases are pending before the *Sandiganbayan*.

On January 9, 2006, the Office of the Special Prosecutor filed before the *Sandiganbayan* a Motion to Suspend the Accused Pursuant to Section 13, RA 3019[5] arguing that under Section 13 of RA 3019,[6] petitioner's suspension from office was mandatory. Petitioner opposed[7] the motion claiming that there is no proof that the evidence against her was strong; that her continuance in office does not prejudice the cases against her nor pose a threat to the safety and integrity of the evidence and records in her office; and that her re-election to office justifies the denial of suspension.

Ruling of the Sandiganbayan

On February 9, 2006, the *Sandiganbayan* issued a Resolution granting the motion to suspend, thus:

> WHEREFORE, PREMISES CONSIDERED, the Motion of the Prosecution is hereby GRANTED. As prayed for, this Court hereby ORDERS the suspension *pendente lite* of herein accused, Lucena Diaz Demaala, from her present position as Municipal Mayor of Narra, Palawan, and from any other public position he [sic] may now be holding. His [sic] suspension from office shall be for a period of ninety (90) days only, to take effect upon the finality of this Resolution.

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4 The Anti-Graft and Corrupt Practices Act, which provides –

Section 3. *Corrupt practices of public officers*. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

5 *Rollo*, pp. 10-14.

6 Section 13. *Suspension and loss of benefits*. – Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title Seven 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. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

In the event that such convicted officer, who may have been separated from the service, has already received such benefits he shall be liable to restitute the same to the government. (As amended by Batas Pambansa Blg. 195, March 16, 1982).

7 *Rollo*, pp. 16-18.

Let the Honorable Secretary of the Department of Interior and Local Government, and the Provincial Governor of Palawan be furnished copies of this Resolution.

Once this Resolution shall have become final and executory, the Honorable Secretary of the Department of Interior and Local Government shall be informed accordingly for the implementation of the suspension of herein accused.

Thereafter, the Court shall be informed of the actual date of implementation of the suspension of the accused.

SO ORDERED.[8]

The *Sandiganbayan* held that preventive suspension was proper to prevent petitioner from committing further acts of malfeasance while in office. It stated further that petitioner's re-election to office does not necessarily prevent her suspension, citing this Court's ruling in *Oliveros v. Judge Villaluz*[9] that pending prosecutions for violations of RA 3019 committed by an elective official during one term may be the basis for his suspension in a subsequent term should he be re-elected to the same position or office. The court added that by her arraignment, petitioner is deemed to have recognized the validity of the Informations against her; thus, the order of suspension should issue as a matter of course.

On March 23, 2006, petitioner filed her Motion for Reconsideration.[10] She argued that the motion to suspend should have been filed earlier and not when the prosecution is about to conclude the presentation of its evidence; that the prosecution evidence indicates that petitioner's acts are not covered by Section 3(h) of RA 3019, and thus not punishable under said law; that the evidence failed to show that petitioner was committing further acts of malfeasance in office; and that suspension – while mandatory – is not necessarily automatic. Petitioner scheduled the hearing of her Motion for Reconsideration on April 26, 2006, thus:

NOTICE OF HEARING

To: Pros. Manuel T. Soriano, Jr.
Office of the Special Prosecutor
Sandiganbayan Bldg.
Commonwealth Avenue
Quezon City

GREETINGS:

Please take notice that on Wednesday, April 26, 2006 at 1:30 o'clock P.M. or as soon as [sic] thereafter as counsels may be heard, the undersigned will

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8 Id. at 23-24.
9 156 Phil. 137, 155 (1974).
10 *Rollo*, pp. 26-28.

submit the foregoing Motion for the consideration and approval of the Honorable Court.

(signed)
ZOILO C. CRUZAT[11]

The Ombudsman (prosecution) opposed[12] petitioner's Motion for Reconsideration.

On April 19, 2006, the prosecution filed a Manifestation with Motion to Reset the Trial Scheduled on April 26 and 27, 2006.[13] It sought to reset the scheduled April 26 and 27, 2006 hearing for the continuation of the presentation of the prosecution's evidence to a later date. The manifestation and motion to reset trial was scheduled for hearing on April 21, 2006. It states, in part, that –

> **Per the January 19, 2006 Order of the Honorable Court, trial of these cases will continue on April 26 and 27, 2006**, both at 1:30 in the afternoon.
>
> x x x x
>
> In view of the foregoing and in order not to make the government unnecessarily pay for the expenses of the intended witnesses who were in Palawan, the prosecution did not issue a subpoena to its next witnesses anymore.
>
> Unfortunately, to date, the parties are yet to meet and discuss matters that would be included in the joint stipulations, as the two (2) scheduled meetings at the Office of the Special Prosecutor between the prosecution and the defense did not materialize. Nevertheless, the accused has not filed any manifestation to inform the Honorable Court that the accused is no longer willing to enter into stipulations. Hence, there is a possibility that the parties will eventually come up with a joint stipulation of facts.[14] (Emphasis supplied)

On April 21, 2006, the *Sandiganbayan* issued an Order[15] granting the prosecution's motion to reset trial and scheduled the continuation thereof on August 2 and 3, 2006. The Order reads, as follows:

> In view of the Motion to Reset the Trial Scheduled on April 26 and 27, 2006 filed by the Prosecution and finding the same to be meritorious, the motion is hereby granted. Thus, trial on April 26 and 27, 2006 is cancelled and reset on August 2 and 3, 2006, both at 1:30 in the afternoon.

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11 Id. at 28.
12 Id. at 72-76.
13 Id. at 30-33.
14 Id. at 30-31.
15 Id. at 34.

Notify the parties and counsels accordingly.

SO ORDERED.[16]

On May 23, 2006, the *Sandiganbayan* issued the assailed Resolution denying petitioner's March 23, 2006 Motion for Reconsideration, thus:

> WHEREFORE, PREMISES CONSIDERED, the instant Motion for Reconsideration filed by herein accused Mayor Lucena Diaz Demaala, is hereby DENIED for lack of merit. Our ruling in our Resolution of February 9, 2006 is MAINTAINED.
>
> SO ORDERED.[17]

In denying the motion, the *Sandiganbayan* held that the grounds relied upon and arguments raised therein were mere reiterations of those contained in petitioner's Opposition to the Motion to Suspend the Accused; that contrary to petitioner's submission that the motion to suspend should have been filed earlier and not when the prosecution is about to conclude the presentation of its evidence, the suspension of an accused public officer is allowed so long as his case remains pending with the court; that the issue of whether petitioner's acts constitute violations of RA 3019 is better threshed out during trial; and that while it is not shown that petitioner was committing further acts of malfeasance while in office, the presumption remains that unless she is suspended, she might intimidate the witnesses, frustrate prosecution, or further commit acts of malfeasance.[18]

Feeling aggrieved, petitioner filed the instant Petition.

On August 9, 2006, the Court issued a *Status Quo* Order[19] enjoining the implementation of the *Sandiganbayan's* February 9, 2006 Resolution.

Issue

Petitioner claims that she was denied due process when the *Sandiganbayan* issued its May 23, 2006 Resolution denying her Motion for Reconsideration even before the same could be heard on the scheduled August 2 and 3, 2006 hearings.

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16 Id.

17 Id. at 38.

18 Citing *Bolastig v. Sandiganbayan*, G.R. No. 110503, August 4, 1994, 235 SCRA 103, 108 and *Beroña v. Sandiganbayan*, 479 Phil. 182, 190 (2004).

19 *Rollo*, pp. 45-48.

Petitioner's Arguments

The Petition is premised on the argument that petitioner's Motion for Reconsideration – of the February 9, 2006 Resolution ordering her suspension from office – was originally set for hearing on April 26, 2006, but upon motion by the prosecution, the same was reset to August 2 and 3, 2006; nonetheless, before the said date could arrive, or on May 23, 2006, the *Sandiganbayan* resolved to deny her Motion for Reconsideration. Hence, she was deprived of the opportunity to be heard on her Motion for Reconsideration on the appointed dates – August 2 and 3, 2006, thus rendering the court's May 23, 2006 Resolution void for having been issued with grave abuse of discretion.

In her Reply,[20] petitioner adds that her counsel intentionally set the hearing of her Motion for Reconsideration on April 26 and 27, 2006 in order to coincide with the main trial of the criminal cases; that since the court rescheduled the April 26 and 27 hearings, she no longer bothered to go to court on April 26, 2006 as "she had no business to be there". Petitioner further claims that she did not file any pleading seeking to reset the hearing of her Motion for Reconsideration because the same had already been scheduled for hearing on August 2 and 3, 2006 at the initiative of the prosecution.

Petitioner now prays that the February 9 and May 23, 2006 Resolutions of the *Sandiganbayan* be set aside, and that injunctive relief be granted to enjoin her suspension from office.

Respondent's Arguments

Praying that the Petition be dismissed, the prosecution argues in its Comment[21] that petitioner's arguments are misleading. It stresses that the prosecution's Manifestation with Motion to Reset the Trial Scheduled on April 26 and 27, 2006 sought to reset the scheduled April 26 and 27, 2006 hearing for the continuation of the presentation of the prosecution's evidence, and not the scheduled April 26, 2006 hearing of petitioner's Motion for Reconsideration. It clarifies that a reading of its manifestation and motion to reset trial would reveal that what was sought to be rescheduled was the hearing proper and not the hearing on petitioner's Motion for Reconsideration; in the same vein, what the *Sandiganbayan* granted in its April 21, 2006 Order was the rescheduling of the April 26 and 27, 2006 hearing for the continuation of the presentation of the prosecution's evidence, and not the April 26, 2006 hearing of petitioner's Motion for Reconsideration. For this reason, it cannot be said that petitioner was denied due process when the *Sandiganbayan* issued its assailed May 23, 2006 Resolution.

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20 Id. at 78-82.
21 Id. at 57-68.

The prosecution adds that petitioner should have gone to court on April 21, 2006 to attend the hearing of its manifestation and motion to reset trial to reiterate her Motion for Reconsideration.

Next, the prosecution argues that petitioner's Motion for Reconsideration was not denied outright; the *Sandiganbayan* resolved her motion on the merits and painstakingly addressed each argument raised therein. Moreover, the prosecution filed its written opposition to the Motion for Reconsideration, which thus joined the issues and rendered the motion ripe for resolution. As such, petitioner was given reasonable opportunity to be heard and submit her evidence on the motion. It cites the ruling in *Batul v. Bayron*[22] stating that "'to be heard' does not only mean presentation of testimonial evidence in court. One may also be heard through pleadings and where opportunity to be heard through pleadings is accorded, there is no denial of due process."[23]

Our Ruling

The Court dismisses the Petition.

The only issue is whether petitioner was denied due process when the *Sandiganbayan* issued its May 23, 2006 Resolution denying the Motion for Reconsideration without conducting a hearing thereon.

Petitioner's cause of action lies in the argument that her Motion for Reconsideration, which was originally set for hearing on April 26, 2006, was reset to August 2 and 3, 2006 via the *Sandiganbayan's* April 21, 2006 Order. Nonetheless, before the said date could arrive, the anti-graft court supposedly precipitately issued the assailed May 23, 2006 Resolution denying her Motion for Reconsideration, thus depriving her of the opportunity to be heard.

The above premise, however, is grossly erroneous.

A reading and understanding of the April 21, 2006 Order of the *Sandiganbayan* indicates that what it referred to were the **two** hearing dates of April 26 and 27, 2006 covering the continuation of the trial proper – the ongoing presentation of the prosecution's evidence – and ***not*** the **single** hearing date of April 26, 2006 for the determination of petitioner's Motion for Reconsideration. The prosecution's manifestation and motion to reset trial itself unmistakably specified that what was being reset was the trial proper which was scheduled on April 26 and 27, 2006 *pursuant to the court's previous January 19, 2006 Order*; it

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22 468 Phil. 130 (2004).

23 Id. at 143.

had nothing at all to do with petitioner's Motion for Reconsideration.

If petitioner truly believed that the prosecution's manifestation and motion to reset trial referred to the April 26, 2006 hearing of her Motion for Reconsideration, then she should have attended the scheduled April 21, 2006 hearing thereof to reiterate her motion or object to a resetting. Her failure to attend said hearing is a strong indication that she did not consider the manifestation and motion to reset trial as covering or pertaining to her Motion for Reconsideration which she set for hearing on April 26, 2006.

On the other hand, petitioner's failure to attend the scheduled April 26, 2006 hearing of her own Motion for Reconsideration is fatal to her cause. Her excuse – that she no longer bothered to go to court on April 26, 2006 since "she had no business to be there" – is unavailing. By being absent at the April 21, 2006 hearing, petitioner did not consider the prosecution's manifestation and motion to reset trial as related to her pending Motion for Reconsideration. Thus, it was incumbent upon her to have attended the hearing of her own motion on April 26, 2006. Her absence at said hearing was inexcusable, and the *Sandiganbayan* was therefore justified in considering the matter submitted for resolution based on the pleadings submitted.

Consequently, there was nothing procedurally irregular in the issuance of the assailed May 23, 2006 Resolution by the *Sandiganbayan.* The contention that petitioner was deprived of her day in court is plainly specious; it simply does not follow. Where a party was afforded the opportunity to participate in the proceedings, yet he failed to do so, he cannot be allowed later on to claim that he was deprived of his day in court. It should be said that petitioner was accorded ample opportunity to be heard through her pleadings, such conclusion being consistent with the Court's ruling in *Batul v. Bayron*, later reiterated in *De La Salle University, Inc. v. Court of Appeals*,[24] thus –

> Where a party was afforded an opportunity to participate in the proceedings but failed to do so, he cannot complain of deprivation of due process. Notice and hearing is the bulwark of administrative due process, the right to which is among the primary rights that must be respected even in administrative proceedings. The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. So long as the party is given the opportunity to advocate her cause or defend her interest in due course, it cannot be said that there was denial of due process.
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> A formal trial-type hearing is not, at all times and in all instances, essential to due process – it is enough that the parties are given a fair and reasonable opportunity to explain their respective sides of the controversy and to

[24] 565 Phil. 330 (2007).

present supporting evidence on which a fair decision can be based. "To be heard" does not only mean presentation of testimonial evidence in court – one may also be heard through pleadings and where the opportunity to be heard through pleadings is accorded, there is no denial of due process.[25]

WHEREFORE, the Petition is **DISMISSED**. The August 9, 2006 *Status Quo* Order is **LIFTED**.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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[25] Id. at 357-358.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice