

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

- versus -

MA. GRACE CIELO PADACA,
et. al.,

Accused.

Criminal Case No. SB-11-
CRM-0282

For: Malversation of Public
Funds

Criminal Case No. SB-11-
CRM-0283

For: Violation of Section 3(e) of
Republic Act (R. A.) No. 3019

Present

CABOTAJE-TANG, PJ.,
Chairperson,
FERNANDEZ, J. and
TRESPESES,¹ J.

Promulgated:

SEPTEMBER 2, 2016

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RESOLUTION

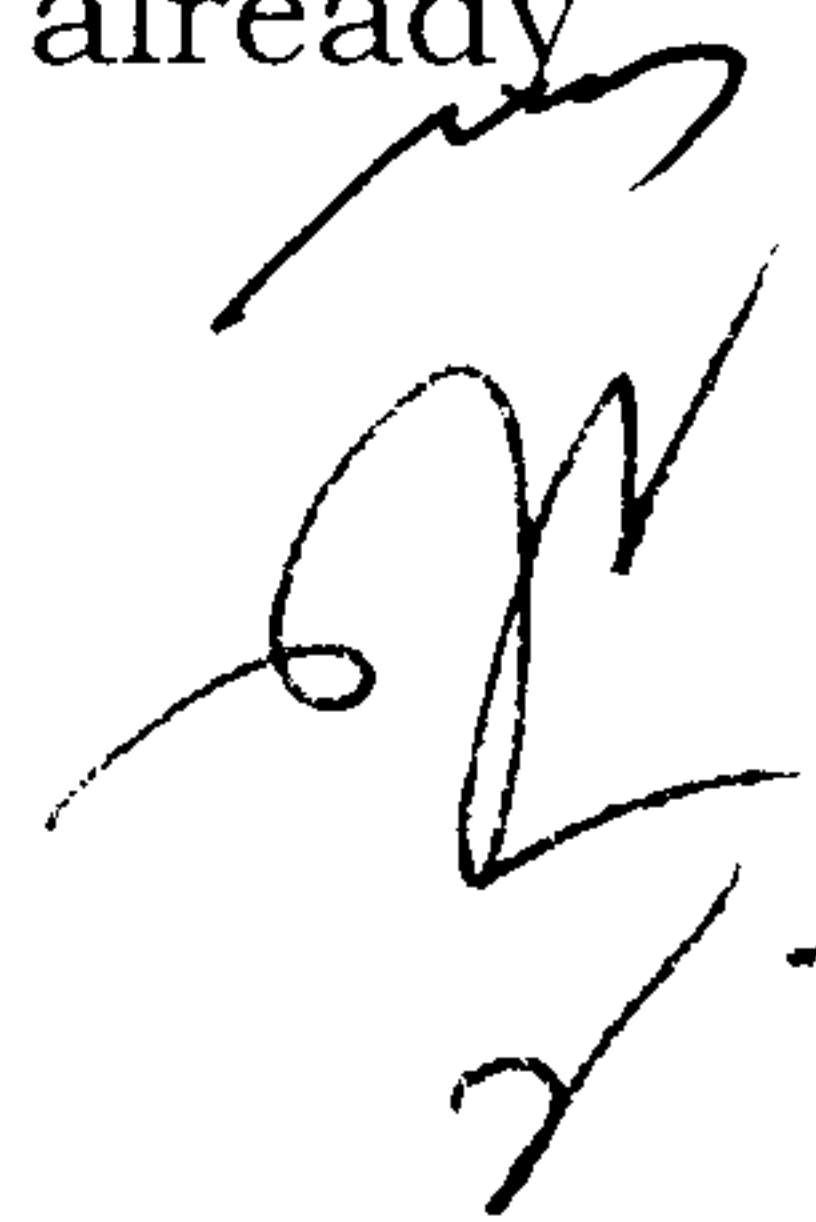
CABOTAJE-TANG, PJ:

This resolves the Motion to Suspend *Pendente Lite* dated July 14, 2016 filed by the prosecution praying that an order be issued for the suspension *pendente lite* of accused Servando Cristobal Soriano pursuant to Section 13 of R. A. No. 3019.²

Accused Soriano filed a Comment/Opposition dated August 16, 2016. He argues that the prosecution had already

¹ Sitting as a special member per Administrative Order No. 227-2016 dated July 26, 2016

² pp. 439-442, Record, Vol. V



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marked all its documents during the pre-trial and had already presented several key witnesses; hence, the purpose of a motion to suspend *pendente lite*, i.e., to prevent the accused from tampering the documents or influencing witnesses, no longer exists.³

The Court finds the motion to suspend the accused *pendente lite* meritorious.

Section 13 of R. A. No. 3019 reads:

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 7, 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 a 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 already been separated from the service, has already received such benefits he shall be liable to retribute the same to the government.

It is now settled that Section 13 of R. A. No. 3019 makes it mandatory for the Sandiganbayan to suspend any public official against whom a valid information charging a violation of that law, Book II, Title 7 of the Revised Penal Code, or any offense involving fraud upon government or public funds or property is filed. The court trying a case has neither discretion nor duty to determine whether preventive suspension is

³ pp. 465-467. Record, Vol. V

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required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continuing committing malfeasance in office.⁴

Accused Soriano is charged with malversation of public funds and violation of Section 3(e) of R. A. No. 3019 and, as correctly pointed out by the prosecution, there is no issue on the validity of the Informations in these cases; hence, the suspension of accused Soriano is mandatory.

Accused Soriano, however, contends that the reason for his suspension *pendent lite* no longer exists because he could no longer tamper with the documents or influence witnesses since the prosecution had already marked its evidence and presented its key witnesses.

The Court finds the contention devoid of merit.

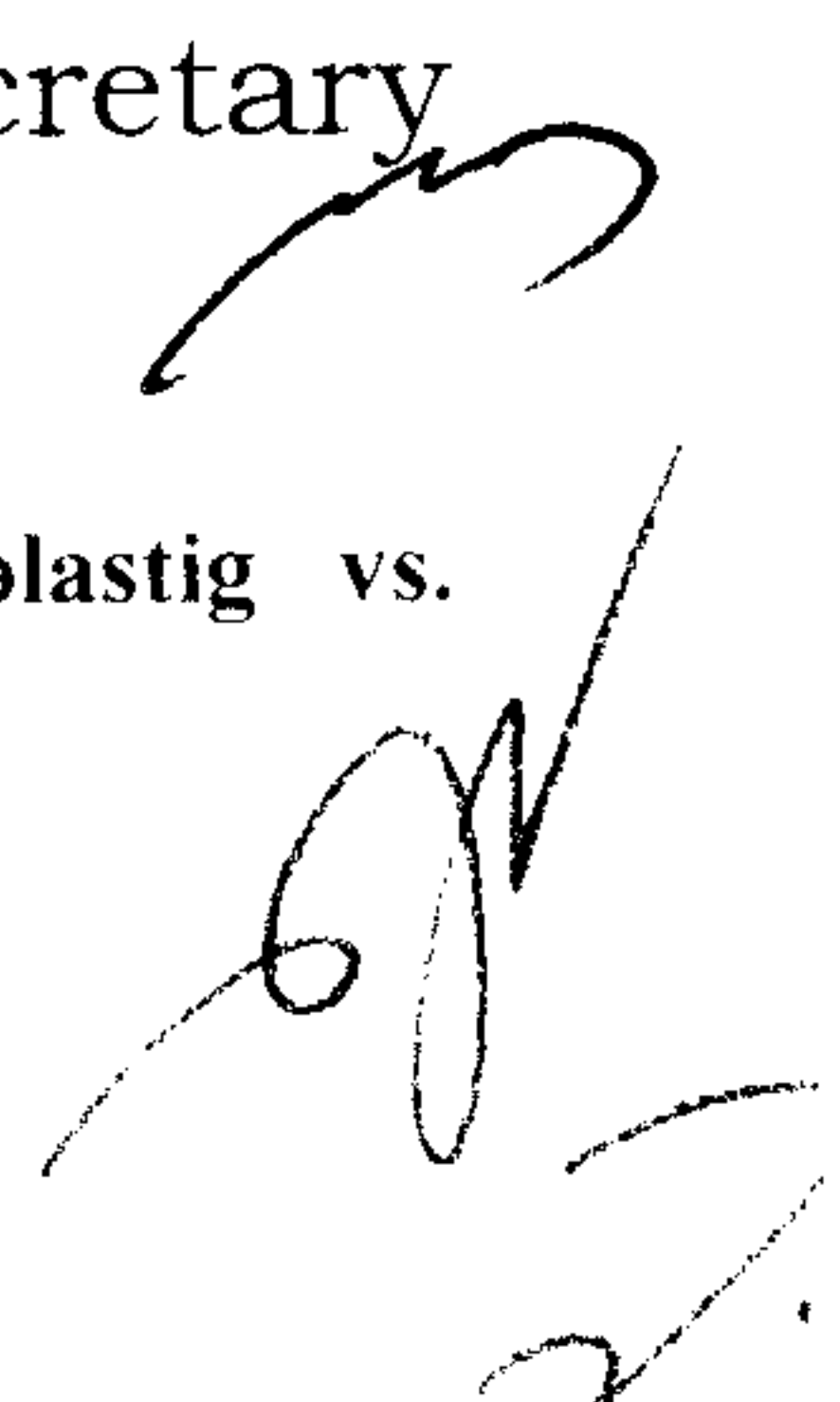
In **Berona vs. Sandiganbayan**,⁵ the Supreme Court held that such reason cannot override the mandatory character of Section 13. The possibility that the accused would intimidate witnesses or hamper their prosecution is just one of the grounds for preventive suspension. Another is to prevent the accused from committing further acts of malfeasance while in office.

WHEREFORE, the prosecution's Motion to Suspend *Pendente Lite* dated July 14, 2016 is GRANTED. The Court hereby orders the suspension *pendente lite* of accused SERVANDO CRISTOBAL SORIANO as Vice Mayor of Roxas, Isabela and from any other public position he may now or hereafter hold for a period of ninety (90) days, to take effect immediately upon receipt of this Resolution.

Let a copy of this Resolution be furnished the Secretary of the Department of Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary

⁴ Villaseñor, *et. al. vs. Sandiganbayan, et. al.*, 547 SCRA 658 (2008), citing *Bolastig vs. Sandiganbayan*, 235 SCRA 103 (1994)

⁵ 435 SCRA 303 (2004)



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is requested to inform the Court of the action taken thereon within five (5) days from receipt hereof.

The suspension of the accused shall automatically be lifted upon the expiration of the ninety-day period from the implementation of this resolution.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice


ZALDY V. TRESPESES
Associate Justice