



Republic of the Philippines  
*Sandiganbayan*  
Quezon City  
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SEVENTH DIVISION

*MINUTES of the proceedings held on September 5, 2017.*

*Present:*

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson  
ZALDY V. TRESPESES ----- Associate Justice  
BAYANI H. JACINTO\* ----- Associate Justice

The following resolution was adopted:

**Criminal Case No. SB-11-CRM-0203 – People v. Tomas P. Bongalonta, Jr.**

This resolves the following:

1. Prosecution's "MOTION TO SUSPEND PENDENTE LITE"<sup>1</sup> dated July 12, 2017; and
2. Accused Tomas P. Bongalonta, Jr.'s "COMMENT/OPPOSITION TO THE MOTION TO SUSPEND PENDENTE LITE"<sup>2</sup> dated August 18, 2017.

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The Prosecution seeks the suspension *pendente lite* for ninety (90) days of accused Tomas P. Bongalonta, Jr. ["accused"], who is the incumbent Municipal Mayor of Pili, Camarines Sur, citing Section 13 of *Republic Act No. 3019 (R.A. 3019)* which provides:

SEC. 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.

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It is argued by the Prosecution that the grounds for accused's suspension *pendente lite* concur, which are: (1) accused's arraignment under

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\* Per Administrative Order No. 284-2017 dated August 18, 2017

<sup>1</sup> Records, Vol. 3, pp. 75-77

<sup>2</sup> *Id.* at 92-95

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a valid information; and (2) that the crime involves *R.A. 3019*, Title Seven, Book II of the *Revised Penal Code*, or any offense involving fraud upon government of public funds. The Prosecution cites jurisprudence<sup>3</sup> to the effect that preventive suspension under Section 13 of *R.A. 3019* is *mandatory* in character upon a proper determination of the validity of the information.

For his part, accused raises the defense, *inter alia*, that the Prosecution has not proven the essential elements of the crime in his case. He thrusts that he had acted in good faith in dismissing the private complainant, Eileen D. Ceron, from the service. Furthermore, accused assails the timeliness of the Prosecution in filing the present Motion. Instead of filing its Motion prior to the commencement of trial, the Prosecution only submitted the same at a late stage of the proceedings which obviates the essence or purpose of Section 13 of *R.A. 3019*. He points out that he has not committed any malfeasance in office for ten (10) years, nor has he hampered his prosecution. In fact, accused has allowed the production of records which now form part of the prosecution's evidence, and he has also permitted the municipality's employees to testify freely and voluntarily. Hence, accused prays for the denial of the Motion.

The Motion should be granted. It is not for this Court to decide otherwise.

Accused was arraigned and pleaded not guilty<sup>4</sup> under a valid information for violation of Section 3 (e) of *R.A. 3019*. Section 13 of *R.A. 3019* makes it mandatory for this Court to suspend any public officer against whom a valid information is filed charging a violation of said law, Title 7, Book II of the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property.<sup>5</sup> Once the information is found to be sufficient in form and substance, then the Court must issue the order of suspension as a matter of course.<sup>6</sup> There are no ifs and buts about it.<sup>7</sup>

The Court possesses no discretion to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his or her office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he or she may frustrate the prosecution of the case, commit further acts of malfeasance, or do both.<sup>8</sup>

As to the issue of the duration of suspension, it is settled that the preventive suspension may not be of indefinite duration or for an unreasonable length of time; it would be constitutionally proscribed otherwise as it raises, at the very least, questions of denial of due process and equal protection of the laws. The Court has thus laid down the rule that preventive suspension may

<sup>3</sup> *Socrates v. Sandiganbayan*, G.R. Nos. 116259-60, February 29, 1996; *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

<sup>4</sup> Records, Vol. 1, p. 159

<sup>5</sup> *Flores v. Layosa*, G.R. No. 154714, August 12, 2004

<sup>6</sup> *Ibid*

<sup>7</sup> *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

<sup>8</sup> *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009 citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996)

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not exceed the maximum period of ninety (90) days in consonance with *Presidential Decree No. 807 (the Civil Service Decree)*, now Section 52 of the *Administrative Code of 1987*.<sup>9</sup>

In fine, no doubt can assail the verity that the preventive suspension of accused is warranted under the circumstances.

**WHEREFORE**, the Prosecution's *Motion to Suspend Pendente Lite* dated July 12, 2017 is **GRANTED**.

Pursuant to Section 13 of *R.A. 3019*, accused Tomas P. Bongalonta, Jr. is hereby suspended from his position as Municipal Mayor of Pili, Camarines Sur and from any public office which he may now or hereafter be holding for a period of ninety (90) days.

Let a copy of this Resolution be furnished the Secretary of the Department of Interior and Local Government for the implementation of the order of suspension on said accused. Said office is further requested to inform this Court of the date the accused started serving his suspension *pendente lite* and the date of its termination.

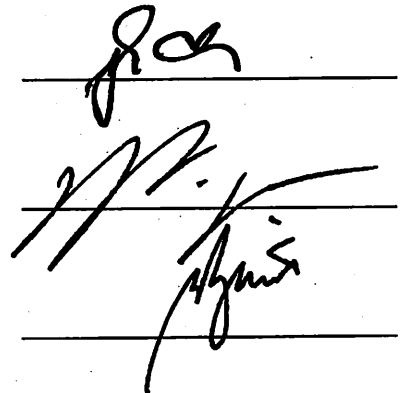
The suspension of the accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

**SO ORDERED.**

**GOMEZ-ESTOESTA, J., Chairperson**

**TRESPESES, J.**

**JACINTO, J.**



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<sup>9</sup> *Layus v. Sandiganbayan*, G.R. No. 134272, December 8, 1999 which cited *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998