



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on September 11, 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-16-CRM-0076 – People v. Caridad Baguio Balaod, et al.

This resolves the following:

1. Prosecution's "MOTION TO SUSPEND PENDENTE LITE"¹ dated July 27, 2017.

The Prosecution moves for the suspension *pendente lite* for ninety (90) days of the following accused public officials: Caridad Baguio Balaod, Gloria Vicenta Nemenon Bation, Alexander Fernandez Remoto, Bienvenido Cagas Suco, Isidro Maglaki Ebrado, Jr. and Elvie Gealon Doong ["the accused"]. All are incumbent public officials of the Local Government Unit (LGU) of Tambulig, Zamboanga del Sur. In support thereof, Section 13 of *Republic Act No. 3019 (R.A. 3019)* is cited as follows:

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 contended by the Prosecution that the elements for the suspension *pendente lite* of the accused concur, which are: (1) arraignment under a valid information; and (2) that the crime involves *R.A. 3019*, Title Seven, Book II

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

¹ Records, Vol. 2, pp. 11-14

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of the *Revised Penal Code*, or any offense involving fraud upon government of public funds. The Prosecution cites jurisprudence² 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.

The accused, on the other hand, failed to file any comment on the prosecution's Motion despite due notice and the lapse of the period given to them to do so. Consequently, the filing by the accused of their comment was deemed waived.

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

The accused were arraigned and pleaded not guilty 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.³ 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.⁴ There are no ifs and buts about it.⁵

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.⁶

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 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*.⁷

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

WHEREFORE, the Prosecution's *Motion to Suspend Pendente Lite* dated July 27, 2017 is **GRANTED**.

² *Socrates v. Sandiganbayan*, G.R. Nos. 116259-60, February 29, 1996

³ *Flores v. Layosa*, G.R. No. 154714, August 12, 2004

⁴ *Ibid*

⁵ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

⁶ *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009 citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996)

⁷ *Layus v. Sandiganbayan*, G.R. No. 134272, December 8, 1999 which cited *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998

Pursuant to Section 13 of *R.A. 3019*, the following accused are hereby suspended from their corresponding positions as public officials of the Local Government Unit of Tambulig, Zamboanga del Sur and from any public office which they may now or hereafter be holding for a period of ninety (90) days:

Name of accused	Position in LGU of Tambulig, Zamboanga del Sur
1. Caridad Baguio Balaod	Municipal Mayor
2. Gloria Vicenta Nemenon Bation	Municipal Budget Officer
3. Alexander Fernandez Remoto	Municipal Planning Development Coordinator
4. Bienvenido Cagas Suco	Municipal Engineer
5. Isidro Maglaki Ebrado, Jr.	Engineer I
6. Elvie Gealon Doong	Local Revenue Collection Officer II

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 their suspension *pendente lite* and the date of its termination.

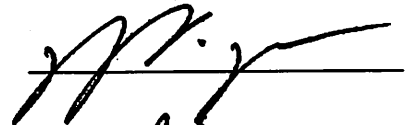
The suspension of the accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.

GOMEZ-ESTOESTA, J., Chairperson



TRESPESES, J.



JACINTO, J.

