



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES, SB-17-CRM-0463 to 0464
Plaintiff,

– versus –

JERRY P. PASIGIAN,
Accused.

For: Violation of Section 3(e)
of Republic Act No. 3019 and
Malversation of Public Funds
or Property (Article 217 of the
Revised Penal Code)

Present:

LAGOS, J., Chairperson,
CRUZ*, and
MENDOZA-ARCEGA, JJ.

Promulgated:

September 04, 2017

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RESOLUTION

LAGOS, J.:

For resolution is the prosecution's Motion to Suspend Accused Pendente Lite.¹ In the hearing on the motion on 20 July 2017, the accused was given a period of fifteen (15) days within which to file his comment/opposition², but such period lapsed without any comment/opposition being filed.

In its motion, the prosecution asserts that the accused is an incumbent public officer, as he is presently the mayor of the Municipality of Alfonso Castañeda in Nueva Vizcaya, and that he was arraigned on 26 April 2017. It maintains that the Information in this

* As per Administrative Order No. 025-2017 dated February 1, 2017.

¹ Dated 20 July 2017; Records, pp. 125-127.

² Order dated 20 July 2017; Records, p. 130.

case is valid. Thus, the accused's preventive suspension is in order, pursuant to section 13 of R.A. No. 3019.

DISCUSSION and RULING

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

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 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 judgement, 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.

Section 13 of R.A. No. 3019 is unequivocal. Any incumbent public officer against whom any criminal prosecution, under a valid information under R.A. No. 3019, is pending in court shall be suspended from office. It is a preventive suspension, not a penalty, and its purpose is to prevent the accused public officer from hampering his or her prosecution by intimidating or influencing witnesses, tampering with documentary evidence, or committing further acts of malfeasance while in office.³

An accused who enters a plea waives any objection he or she may have to the validity of an information, except on certain grounds.⁴ Herein accused was given the chance to file his comment to the motion and raise therein any objection to the validity of the information, but he chose not to do so. Since the accused has already been arraigned and no defect in the Information has been noted, the validity of such Information is no longer in question.

Accused Pasigian thus stands charged for violation of section 3(e) of R.A. No. 3019 under a valid Information. Therefore, his preventive suspension under section 13 of R.A. No. 3019 is mandatory and warranted.

While the law does not specify the length of the suspension, jurisprudence has fixed such suspension at ninety (90) days. In *Gonzaga v. Sandiganbayan*⁵, the Supreme Court, citing its earlier

³ Beroa v. Sandiganbayan, G.R. No. 142456, 27 July 2004.

⁴ Miranda v. Sandiganbayan, G.R. No. 154098, 27 July 2005; Rule 117, section 9 of the Rules of Court.

⁵ G.R. No. 96131, 6 September 1991.

rulings in *Doromal v. Sandiganbayan*⁶ and *Deloso v. Sandiganbayan*⁷, said that preventive suspension under section 13 of R.A. No. 3019 shall be limited to a maximum period of ninety (90) days.

WHEREFORE, the prosecution's motion is hereby GRANTED. Accused Jerry P. Pasigian is ordered preventively suspended as Mayor of the Municipality of Alfonso Castañeda, Nueva Vizcaya or from any other 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 to the Governor of the Province of Nueva Vizcaya, who is directed to implement this order of suspension and report to this Court, within five (5) days from receipt, the action taken on this matter, including the actual date of implementation of the suspension order and the ninetieth (90th) day thereof.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


REYNALDO P. CRUZ
Associate Justice


**MARIA THERESA V.
MENDOZA-ARCEGA**
Associate Justice

⁶ G.R. No. 85468, 7 September 1989, 177 SCRA 354.

⁷ G.R. Nos. 86899-903, 15 May 1989, 173 SCRA 409.