



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 4 May 2018.

Present:

Hon. MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson
Hon. ZALDY V. TRESPESES ----- Member
Hon. BAYANI H. JACINTO----- Member*

The following resolution was adopted:

Crim. Case No. SB-16-CRM-0582 & 0583 People vs. SUSANA ARIOLA SALVACION

This resolves the following:

1. The prosecution's "MOTION TO SUSPEND PENDENTE LITE" dated April 5, 2018;¹ and
2. Accused Susana Salvacion's "COMMENT ON THE MOTION TO SUSPEND" dated April 22, 2018.²

This resolves the Motion to Suspend *Pendente Lite* filed by the prosecution and the Comment thereto filed by accused Susana A. Salvacion.

In its Motion, the prosecution prays for the suspension *pendente lite* of herein accused Salvacion in accordance with Sec. 13 of R.A. No. 3019, the pertinent portion of which reads:

Section 13. *Suspension and loss of benefits.* Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery 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 support of its motion, the prosecution alleges: 1) that accused was arraigned before this Court for the offenses charged and thus, the validity of the Informations is no longer in question; 2) that the suspension

*Sitting as Special Member per Administrative Order No. 284-2017 dated 18 August 2017.

¹ *Rollo*, Vol. 2, pp. 21-24.

² *Id.* at 29-37.

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contemplated in Sec. 13 of R.A. No. 3019 is mandatory in character; and 3) that accused is presently holding the position of Professor I, at the Southern Luzon State University (SLSU), Lucban, Quezon.

In her Comment, accused argues that by virtue of the Decision of the Ombudsman in Administrative Case No. OMB-L-12-0396-G entitled "*Moises B. Villasenor, et al. v. Susana A. Salvacion*", she was suspended for a period of six months without pay, which she has already served. Based on the same complaint that resulted in the conviction of accused in the administrative case, two criminal Informations were filed against her, which are now these instant cases. Accused is again being threatened with another suspension, but this time, pursuant to Sec. 13 of R.A. No. 3019.

Accused points out that since these criminal cases are based on the same set of facts as in the administrative case, which resulted in her suspension for six months, and such suspension having been served; thus, there has already been substantial compliance of the law.

RULING

The Court finds merit in the prosecution's motion.

To warrant the preventive suspension of accused, the following conditions must be present: that the Information must be valid, and that accused must be charged with the covered offense, i.e. violation of RA 3019, or crimes defined under Title Seven, Book II of the RPC, or any offense involving fraud upon government or public funds or property. All of the requisite conditions exist in the case at bar.

***Accused is charged with violations
of Sec. 3(e) and (h) of R.A. No. 3019
and was arraigned based on valid
Informations***

Accused is charged with the covered offenses for alleged violation of Sec. 3 (e) and (h) of R.A. No. 3019.

Another pre-condition for the suspension is the existence of a valid Information, determined at a pre-suspension hearing, which is limited to ascertaining whether: a) accused had been afforded due preliminary investigation prior to the filing of the Information against him; b) the acts for which he was charged constitute a violation of the provision of RA 3019 the provision of Title Seven, Book II of the Revised Penal Code, or any offense involving fraud upon government or public funds or property, or c) the

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Information against him can be questioned under any of the grounds provided in Sec. 3, Rule 117 of the Rules of Court.³

The pre-suspension hearing need not be a full-blown hearing. What is required only is that accused be given a fair and adequate opportunity to challenge the validity of the Information through the filing of pleadings.⁴ However, nothing in the records show that accused Salvacion assailed the validity of the informations through a motion to quash.

Nonetheless, accused was given the opportunity to ventilate her side on the issue of the insufficiency of the Informations through the submission of pleadings such as the filing of her comment to the motion to suspend *pendente lite*. But even in her Comment, accused failed to sufficiently and effectively assail the validity of the Informations. In fact, accused was arraigned and entered a plea of “not guilty” on 31 January 2017,⁵ thereby admitting and acknowledging the validity of the Informations.

On the other hand, the Court finds the Informations to be sufficient in form and substance. They do not simply allege that the acts attributed to the accused were willfully, unlawfully, or criminally caused, in fact the Informations clearly states the ultimate facts constituting the transgressions attributed to accused.

As regards the first Information, it was sufficiently alleged that accused committed the offense “with evident bad faith and manifest partiality and for gross inexcusable negligence,” in relation to and taking advantage of her official functions, and which afforded unwarranted benefits, advantage, favor or privilege to Nurmed Hyperlearn Review and Tutorial Services (Nurmed), in violation of Sec. 3 (e) R.A. No. 3019.

As to the second Information, it was alleged that accused is a public officer responsible for the over-all administration of the College of Allied Medicine (COAM); that in relation to her office and taking advantage thereof, she introduced Nurmed as an alternative review facility to SLSU students and facilitated the use of the COAM auditorium as venue for the review classes without requiring any permit or contract; and that she has a direct financial or pecuniary interest in the transaction, considering that she is the owner of Nurmed, in violation of Sec. 3 (h) of R.A. No. 3019.

Service of suspension in the administrative case will not bar the implementation of preventive suspension under RA 3019

³ *Dela Cruz v. Sandiganbayan*, 622 Phil 908-925 (2009).

⁴ *Torres, et al. v. Garchitorena, et al.*, 442 Phil 765-784 (2002).

⁵ *Rollo*, Vol. 1, p. 130

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Accused argues that since she was already suspended administratively based on the same facts and circumstances, and has already served the period of suspension, she submits that there was already substantial compliance with the law.

We find that accused's argument is misplaced.

It bears to stress that the administrative and criminal charges filed before the Office of the Ombudsman and the trial court, respectively, are separate and distinct from each other even if they arise from the same act or omission.⁶ Thus, criminal actions will not preclude administrative proceedings, and vice-versa, insofar as the application of the law on preventive suspension is concerned.⁷

It appears that the suspension, which was allegedly served by accused was based on the decision of the Ombudsman in the administrative case filed against her. Her suspension was considered a penalty after finding her guilty for simple misconduct and for violation of Sec. 9 of R.A. No. 6713.

On the other hand, the preventive suspension prayed for by the prosecution in the instant cases is not a penalty, since accused, whose culpability remains to be proven, is still entitled to the constitutional presumption of innocence.⁸ It is merely a measure of precaution so that the employee who is charged may be separated, for obvious reasons, from office.⁹ The possibility that accused would intimidate witnesses or hamper their prosecution is just one of the grounds for preventive suspension. Another is to prevent accused from committing further acts of malfeasance while in office.¹⁰

Since the criminal and administrative cases are separate and distinct from each other, the service by accused of her suspension in the administrative case does not bar the court from enforcing the mandatory preventive suspension imposed under RA 3019.

***Preventive suspension of accused
under RA 3019, mandatory***

It is well settled that the preventive suspension under Section 13 of R.A. No. 3019 is mandatory.¹¹ In *Villaseñor v. Sandiganbayan*, citing the

⁶ *Gonzales v. Serrano*, G.R. No. 175433, 11 March 2015.

⁷ *Villaseñor v. Sandiganbayan*, 571 Phil 373-386 (2008).

⁸ *Juan v. People*, 379 Phil 125-140 (2000).

⁹ *Supra* note 7.

¹⁰ *Beroña v. Sandiganbayan*, 479 Phil 182-191 (2004).

¹¹ *Supra* note 3.

Bolastig v. Sandiganbayan,¹² the Supreme Court stressed the mandatory nature of preventive suspension as follows:

... It is now settled that Sec. 13 of Republic Act No. 3019 makes it mandatory for the Sandiganbayan to suspend any public official against whom a valid information charging 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 required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continuing committing malfeasance in office.* The presumption is that unless the accused is suspended he may frustrate his prosecution or commit further acts of malfeasance or do both, in the same way that upon a finding that there is probable cause to believe that a crime has been committed and that the accused is probably guilty thereof, the law requires the judge to issue a warrant for the arrest of the accused. The law does not require the court to determine whether the accused is likely to escape or evade the jurisdiction of the court. (Underscoring supplied)

Considering that accused is charged with a violation of RA 3019 as amended, and the validity of the Informations being unquestioned, it is mandatory for the Court to issue the corresponding preventive suspension order against her as prayed for by the prosecution.

WHEREFORE, the prosecution's Motion to Suspend *Pendente Lite* is **GRANTED**.

Accused Susana A. Salvacion is hereby ordered suspended from office and said accused is directed to cease and desist from further performing and/or exercising the functions, duties and privilege of her position as Professor I of Southern Luzon State University, Lucban, Quezon or any other government position she may now or thereafter be holding, effective upon notice hereof and to continue for a period of ninety (90) days.

Let a copy of this resolution be furnished the President of the Southern Luzon State University, Lucban, Quezon for the implementation of this order of suspension. The said official is directed to inform the Court in writing within five (5) days from receipt of this resolution, of the action taken with regard to the suspension of accused. The said official is also directed to inform the Court of the actual date of the implementation of the suspension, together with the expiry date of the ninety (90) day period, so that it shall be deemed automatically lifted at the end of the term.

SO ORDERED.

¹²Supra note 7.

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GOMEZ-ESTOESTA, Chairperson



TRESPESES, J.



JACINTO, J.

