



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN**

QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE CRIM CASE NO. SB-17-
PHILIPPINES, Plaintiff, CRM-0250**

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

- versus -

**EDGARDO A. TALLADO,
ET AL.,**

Present:
CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B. J. and
FERNANDEZ, S.J., J.¹

Accused.

Promulgated on:

JULY 9, 2018

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution is the prosecution's "*MOTION TO SUSPEND ACCUSED PENDENTE LITE*" dated March 15, 2018² and accused Mario T. Dela Cruz's "*COMMENT (TO THE PROSECUTION'S MOTION TO SUSPEND ACCUSED PENDENTE LITE)*" dated May 4, 2018.³

Citing Section 13 of Republic Act No. 3019, the prosecution seeks the suspension of accused Edgardo A. Tallado and accused Mario T. Dela Cruz from their respective positions of Governor and

¹ As per Administrative Order No. 262-2018 dated April 30, 2018

² pp. 351-356, Vol. III, *Record*

³ pp. 592-594, Vol. III, *Record*

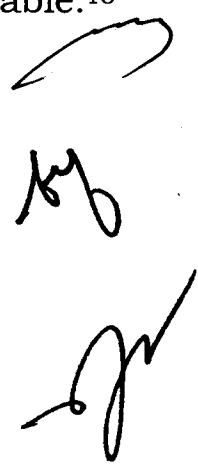
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Provincial Treasurer of the Government of Camarines Norte.⁴ The prosecution argues that the conditions required under the aforesaid provision of law are attendant: (1) the Information charging the accused is valid; and (2) the charged offense is among those enumerated in the legal provision invoked. According to the prosecution, the issuance of the order of suspension should follow as a matter of course consistent with the mandatory nature of such suspension.⁵ In support of their contention, the prosecution cites **Bolastig v. Sandiganbayan**.⁶

In his *Comment* dated May 4, 2018, accused Mario T. Dela Cruz opposes the motion, invoking the pendency of his petition for *Certiorari*⁷ before the Supreme Court.⁸ Accused Dela Cruz argues that the validity of the Information in the present case is one of the issues in the said petition. Further, accused Dela Cruz posits that it would be detrimental to the daily operation of the Office of the Provincial Treasurer of Camarines Norte if he would be suspended.⁹ He further posits that it will not serve the ends of justice to suspend him just because the law says so or that the suspension of a public officer is mandatory.¹⁰ Lastly, he asserts that the only evidence of the prosecution against him is the complaint-affidavit of private complainant Edgardo S. Gonzales.¹¹

For his part, accused Edgardo A. Tallado filed a *Manifestation* dated March 20, 2018,¹² informing the Court of his dismissal from public service for grave misconduct in the Decision dated January 10, 2018 of the Office of the Ombudsman (OMB-L-A-16-0360) as approved by Ombudsman Conchita Carpio Morales on January 11, 2018. In view thereof, accused Tallado prays that the Court declare his suspension *pendente lite* as legally untenable.¹³

⁴ p. 351, Vol. III, *Record*
⁵ p. 352, Vol. III, *Record*
⁶ 235 SCRA 103 (1994)
⁷ pp. 231-290, Vol. III, *Record*
⁸ Docketed as G.R. No. 236030
⁹ p. 583, Vol. III, *Record*
¹⁰ *Id*
¹¹ *Id*
¹² pp. 361-378, Vol. III, *Record*
¹³ p. 362, Vol. III, *Record*

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THE COURT'S RULING

The Court finds the subject motion meritorious.

It is a settled that the suspension of a public officer under Section 13 of R.A. No. 3019 is mandatory.¹⁴ This provision, as amended, reads:

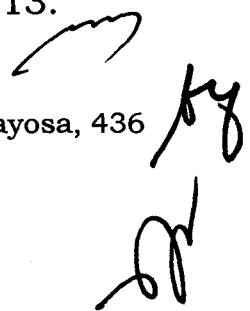
Section 13. Suspension and loss of benefits. — Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title Seven Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as complex offense and in whatever stage of execution and mode of participation, is pending in court shall be suspended from office. Should he be convinced 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. In the event that such convicted officer, who may have been separated from the service has already received such benefits he shall be liable to retribute the same to the government.

Under this section, all that is required for preventive suspension to attach is: (1) that the incumbent public official is charged under a valid information, and (2) that the crime for which he/she is charged involves a violation of R.A. No. 3019, felonies under Title Seven, Book Two of the Revised Penal Code, or for any offense involving fraud upon the government.

As correctly argued by the prosecution, both these circumstances are attendant in this case.

First. The accused stand charged of violation of Section 3 (e) of R.A. No. 3019, an offense expressly covered by Section 13.

¹⁴ Miguel v. Sandiganbayan, 675 SCRA 560 (2012), citing Flores v. Layosa, 436 SCRA 337 (2004)

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Second. The validity of the Information charging the herein accused has been upheld by this Court in its *Resolutions* promulgated on July 6, 2017¹⁵ and September 25, 2017,¹⁶ where the Court resolved the accused's *Omnibus Motion*¹⁷ which included among others, a Motion to Quash.

Under the obtaining facts, it becomes the mandatory duty of the Court to suspend the accused.

The High Court's pronouncement in **Beroña v. Sandiganbayan** is explicit:

Section 13 is so clear and explicit that there is hardly room for any extended court rationalization of the law. Section 13 unequivocally mandates the suspension of a public official from office pending a criminal prosecution under R.A. No. 3019 or Title 7, Book II of the Revised Penal Code or for any offense involving public funds or property or fraud on government. This Court has repeatedly held that such preventive suspension is mandatory, and there are no 'ifs' and 'buts' about it.¹⁸

Anent accused Dela Cruz's invocation of the pendency of his petition for certiorari, it is equally settled that it is not within the court's discretion to hold in abeyance the suspension of the accused officer on the pretext that the order denying the motion to quash is pending review before the appellate courts.¹⁹ This is especially true considering that the High Court has not issued any temporary restraining order despite the said accused's prayer in his petition for *certiorari*.

As to the same accused's arguments on the purported detriment of his suspension to the province of Camarines Norte and the unjustness of implementing the same, suffice it to say that these reasons cannot override the mandatory character of Section 13 of R.A. No. 3019.²⁰


15 pp. 42, Vol. III, Record

16 pp. 95, Vol. III, Record

17 pp. 4-726, Vol. II, *Record*.

18 *Beroña v. Sandiganbayan*, 435 SCRA 303 (2004)

19 *Socrates v. Sandiganbayan*, 253 SCRA 773 (1996)

20 *Beroña v. Sandiganbayan*, 435 SCRA 303 (2004)

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Lastly, as to accused Dela Cruz's claim of the insufficiency of evidence against him, the same is evidentiary in nature and best threshed out in a full-blown trial on the merits.²¹

WHEREFORE, the prosecution's motion to suspend is **GRANTED.**

The Court hereby orders the suspension *pendente lite* of accused MARIO T. DE LA CRUZ as Provincial Treasurer of the Provincial Government of Camarines Norte and from any other public position he may now or hereafter hold for a period of ninety (90) days effective immediately from receipt of this resolution.

Let a copy of this Resolution be furnished the Provincial Governor of Camarines Norte for the implementation of this order of suspension. The Provincial Governor is directed to inform the Court of the action taken thereon within five (5) days from notice hereof.

Accused's Edgardo A. Tallado's *Manifestation* dated March 20, 2018 is **NOTED.** In view of his dismissal, the prayer for the prosecution to suspend him *pendente lite* has been rendered moot and academic.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


SARAH JANE T. FERNANDEZ
Associate Justice

²¹ Clay & Feather International, Inc. v. Lichaytoo, 649 SCRA 516 (2011)