



Republic of the Philippines  
**Sandiganbayan**  
Quezon City  
\*\*\*

**FIFTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**Crim. Case No. SB-18-CRM-0122**  
**For: Violation of Section 3(a)**  
**R.A. No. 3019, as amended**

- versus -

**RICHARD RAFAL ENOJO,**  
*Accused.*

*Present:*  
**Lagos, J., Chairperson,**  
**Mendoza - Arcega and**  
**Corpus - Mañalac, JJ.**

**Promulgated:**  
July 09, 2018 Jal

x-----x

**RESOLUTION**

***CORPUS - MAÑALAC, J.:***

Up at bench for resolution is the prosecution's *Motion [To Suspend Accused Pendente Lite]* filed on May 29, 2018 and accused's *Comment/Opposition* thereto filed on June 28, 2018.

**The Antecedents**

The Information alleges a violation of Republic Act No. 3019, Section 3(a) by the accused, being then the Officer-in-Charge, Provincial Legal Officer/Provincial Administrator of the Province of Negros Oriental, arising from his alleged act of unlawfully persuading, inducing and influencing the Philippine National Police (PNP), Dauin Police Station, to summon Ralph Gavin Hughes, Merlinda A. Regalado and Atty. Ligaya Rubio Violeta to have a conference with him over a land dispute over which he has a personal interest, when such act was beyond the PNP mandate under Section 24 of Republic Act No. 6975<sup>1</sup> to the prejudice of the government and public interest.

Finding probable cause to the complaint, a Hold Departure Order was issued against the said accused on February 19, 2018. A Warrant of his Arrest was accordingly issued on February 21, 2018. After posting bail bond for his provisional liberty on February 26, 2017, the accused was arraigned on May 25, 2018 who pleaded not guilty to the charge. Meanwhile, the instant motion was filed.

<sup>1</sup> Department of Interior and Local Government Act of 1990

X-----X

### The Motion

The prosecution moves for the suspension of the accused from public office for a period of ninety (90) days pending litigation pursuant to Section 13 of Republic Act No. 3019. Allegedly, the accused is the incumbent Provincial Administrator of the Province of Negros Oriental,<sup>2</sup> who when arraigned did not present any challenge to the validity of the *Information*. Citing the case of *Talaga vs. Sandiganbayan*<sup>3</sup>, it asserts that a suspension order should be issued owing to the mandatory character of the preventive suspension contemplated in Section 13 of Republic Act No. 3019.

### The Comment/Opposition

However, the accused counters that a condition *sine qua non* to the issuance of a suspension under Section 13 of Republic Act No. 3019 is the validity of the *Information* in form and substance. The validity of the *Information* should be traced to the *Resolution* of the Ombudsman finding probable cause to indict him. He claims that the finding of the Ombudsman is wrong considering that the act complained of was allegedly committed on February 7, 2013 when he was not yet the Provincial Legal Officer and/or Provincial Administrator. Thus, he was charged allegedly with an *impossible crime*. That even granting he was Provincial Administrator on the date of the alleged commission of crime, he does not have the power or authority to unduly influence the PNP to do an act in his favor since only local chief executives exercise control and supervision over the provincial command of the PNP in their respective jurisdiction.

### The Ruling of the Court

Section 13 of Republic Act 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. xxx

Undoubtedly, a preventive suspension is prescribed against an incumbent public officer who is charged under a valid *Information* for: (a) violation of Republic Act No. 3019; (b) violation of Title 7, Book II of the Revised Penal Code; (c) any offense involving fraud upon a government; or (d) any offense involving fraud upon public funds or property.<sup>4</sup> It is mandatory while the criminal prosecution is pending in court. There is no *ifs* and *buts* about it.<sup>5</sup> The Supreme Court reinforced the mandatory character of this provision of law in the case of *Villaseor vs. Sandiganbayan*<sup>6</sup> citing the cases of *Luciano vs. Provincial*

<sup>2</sup> Records, p. 144

<sup>3</sup> G.R.No.169888, November 11, 2008, citing *Beroa vs. Sandiganbayan*, G.R. No. 142456, July 27, 2004

<sup>4</sup> *Anuncio C. Bustillo vs. Sandiganbayan et al.*, GR No. 146217, April 7, 2006; *Bunye vs. Escareal*, GR No. 110216, September 10, 1993

<sup>5</sup> *Gonzaga vs. Sandiganbayan*, G.R. No. 96131, September 6, 1991, 201 SCRA 417

<sup>6</sup> G.R. No. 180700, March 4, 2008

x-----x

**Governor,<sup>7</sup> Luciano vs. Mariano,<sup>8</sup> People vs. Albano,<sup>9</sup>  
Gonzaga vs. Sandiganbayan.<sup>10</sup> In Bunye vs. Escareal,<sup>11</sup> it was stated that –**

x x x the sole objective of an administrative suspension is to prevent the accused from hampering the normal course of the investigation with his influence and authority over possible witnesses or to keep him off the records and other evidence and to assist prosecutors in firming up a case, if any, against an erring official x x x.

In **Bolastig vs. Sandiganbayan<sup>12</sup>**, it was reiterated that:

x x x 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 continue 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. x x x

Here, the application of Section 13 of Republic Act No. 3019 is called for, considering the presence of the following conditions, *viz*: [1] the accused is an incumbent public officer, i.e. Provincial Administrator as attested to by his *Service Record*,<sup>13</sup> [2] the accused is indicted for violation of R.A. No. 3019, Section 3(a) thereof; and that [3] he was duly arraigned on May 25, 2018 without raising the issue of the validity of the *Information* charging him of herein offense.

In entering a plea to the *Information*, the accused is deemed to have recognized the validity of the same, which plainly defeats his belated claim of alleged erroneous *Information*. The High Court ruled in the case of **Miranda vs. Sandiganbayan**,<sup>14</sup> that an accused who enters a plea waives any objection he or she may have to the validity of the *Information*. In any case, the arguments raised by the accused traversing the merit of the Ombudsman Resolution finding probable cause against him are evidentiary. Definitely, they do not suffice to overcome the legitimacy of the *Information*, which on its face appears to be adequate in form and substance.

Thus, for as long as the anti-graft charge against the accused remains in litigation, without distinction as to the stage of the proceeding, by the literal and clear provision of Section 13 of Republic Act No. 3019, suspension *pendente lite* is availing. However, the suspension is for a limited period of ninety (90) days

<sup>7</sup> G.R. No. L-30306, June 20, 1969, 28 SCRA 517

<sup>8</sup> G.R. No. L-32950, July 30, 1971, 40 SCRA 187

<sup>9</sup> G.R. Nos. L-45376-77, July 26, 1988, 163 SCRA 511

<sup>10</sup> G.R. No. 96131, September 6, 1991, 201 SCRA 417

<sup>11</sup> G.R. No. 110216, September 10, 1993, 226 SCRA 332

<sup>12</sup> **Bolastig vs. Sandiganbayan**, G.R. No. 110503, August 4, 1994

<sup>13</sup> Record, p. 144

<sup>14</sup> **Miranda vs. Sandiganbayan**, G.R. No. 154098, 27 July 2005; Rule 117, Section 9 of the Rules of Court.

x-----x

consistent with the prevailing jurisprudence handed down in the case of *Gonzaga vs. Sandiganbayan*.<sup>15</sup>

**WHEREFORE**, the prosecution's motion is hereby **GRANTED**. Accused Richard Rafal Enojo is preventively suspended from his incumbent position as Provincial Administrator, and 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 the Office of the Governor of the Province of Negros Oriental, who is directed to implement this *Order* of suspension and to inform 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 (90<sup>th</sup>) day thereof.

**SO ORDERED.**

  
**MARYANN E. CORPUS – MAÑALAC**  
Associate Justice

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

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

---

<sup>15</sup> G.R. No. 96131, September 6, 1991