



Republic of the Philippines  
*Sandiganbayan*  
Quezon City  
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**SEVENTH DIVISION**

*MINUTES of the proceedings held on 29 March 2019.*

*Present:*

*Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson*  
*Justice ZALDY V. TRESPESES----- Member*  
*Justice GEORGINA D. HIDALGO----- Member*

*The following resolution was adopted:*

***Crim. Case No. SB-18-CRM-0297, 0308, 0311, 0312, 0313, 0316, 0317, 0320, 0321 AND 0324 - People vs. RODERICK MENDENILLA PAULATE, ET AL.***

This resolves the following:

1. Accused Roderick Paulate's "MOTION FOR RECONSIDERATION" dated March 18, 2019;<sup>1</sup>
2. The prosecution's "OPPOSITION [TO: MOTION FOR RECONSIDERATION DATED 18 MARCH 2019]" dated March 21, 2019.<sup>2</sup>

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**TRESPESES, J.**

This resolves the Motion for Reconsideration filed by accused Roderick Mendenilla Paulate of the Resolution dated 11 March 2019 ordering the suspension from office of accused-movant, and the prosecution's Opposition thereto.

**ACCUSED'S MOTION**

Accused Paulate contends that by entering a plea, an accused in effect waived his right to question the validity of the Information. Since Republic Act No. 3019 (RA No. 3019) makes it mandatory for the court to issue suspension after determination of the validity of the information, accused

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<sup>1</sup> Record, Vol. 2, pp. 419-423.

<sup>2</sup> Id. at 427-432.

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avers that suspension should have been done before arraignment when accused could still attack the validity of the information.

Accused further argues that the preventive suspension embodied in different laws is all for the same purpose of preventing an accused from using his office to influence or to hide evidence that could affect investigation. He claims that the Quezon City Council had already adjourned and the elective officials have stopped coming to office thus, there is no reason to suspend.

Moreover, there is no more investigation to speak of as the case is already in its trial stage. He adds that he was previously suspended by the Ombudsman during the conduct of its investigation. It is presumed that during that period, the prosecution has collected all the evidence it needs. And since he already served suspension, he claims that the second suspension becomes a punitive measure absent due process. This cumulative suspension becomes an instrument of injustice and "partisan politics."

Accused adds that the instant case was filed to frustrate his political plans and the preventive suspension becomes a tool for the traditional politicians to hinder his candidacy. He claims that the "judicial system is being used by these unscrupulous people and the system unwittingly submits, by shying away to interpret."<sup>3</sup>

There also exists an ambiguity because the DILG, which is tasked to implement the suspension is precluded from implementing such order by virtue of the provision in the Local Government Code.

Finally, accused prays for the Court to use its "wide discretion" and not rely on narrowly cited jurisprudence.

**THE PROSECUTION'S COMMENT**

The prosecution counters that RA No. 3019 allows no exception as the law makes it mandatory to issue the suspension immediately after determining the validity of the Information. In here, the validity of the information was upheld when the Court denied accused's Omnibus Motion to Quash dated 18 May 2018 seeking the quashal of the information and the dismissal of the case.

The prosecution asserts that the suspension by the Office of the Ombudsman is based on RA No. 6770, as amended, while the suspension *pendent lite* is anchored on Sec.13 of RA No. 3019. The former is administrative in nature, while the latter is criminal.

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<sup>3</sup> Record, Vol. 2, p. 420 (page 2 of the Motion for Reconsideration).

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The prosecution also alleges that accused must abstain from giving baseless and malicious charges such as accusing the courts of being used by traditional politicians, employing partisan politics, and “unwittingly” submits to traditional politicians, as these are not merely inflammatory but libelous and criminally actionable.

**RULING**

We deny the motion for lack of merit.

***The validity of the Information has already been upheld thus, preventive suspension under Sec. 13 of RA No. 3019 becomes mandatory***

At the outset, accused argues that his suspension should have been done before arraignment where he could still attack the validity of the information.

It should be noted that the question on the validity of the information may be made through a motion to quash before an accused enters his plea. A review of the court records show that accused has already filed an Urgent Omnibus Motion to Quash/Dismiss All Criminal Informations<sup>4</sup>, which was denied by the Court in its Resolution dated 09 July 2018.<sup>5</sup> Also, upon entering his plea of “not guilty” during the arraignment, accused Paulate in effect acknowledged the validity of the information in the instant case.

There is likewise no merit on the claim of deprivation of his right to due process because prior to accused’s suspension, a pre-suspension hearing was conducted and he was given a fair and adequate opportunity to challenge the validity of the criminal proceedings. It is settled that the purpose of the law in requiring a pre-suspension hearing is to determine the validity of the information so that the trial court can have a basis to either suspend the accused and proceed with the trial on the merits of the case, withhold the suspension and dismiss the case, or correct any part of the proceedings that impairs its validity.<sup>6</sup>

In this case, aside from the fact that accused has already filed a motion to quash, he was also given the opportunity to ventilate his side on the insufficiency of the information when he was allowed to file

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<sup>4</sup> Record, Vol. 2, pp. 46-103

<sup>5</sup> Id. at 167-192.

<sup>6</sup> *Miguel v. Sandiganbayan*, G.R. No. 172035, 04 July 2012.

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Comment/Explanation during the pre-suspension hearing. However, even in his comment, accused failed to effectively assail the validity of the information. Thus, accused cannot claim that he was denied due process.

There is also no merit in his argument that there is no reason to suspend because accused stopped coming to the office because the City Council had already adjourned. It should be stressed that the court possesses no discretion to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he may frustrate his prosecution or commit further acts of malfeasance or do both.<sup>7</sup>

Considering that the validity of the information has already been upheld, it becomes mandatory for the court to immediately issue the suspension pursuant to Sec. 13 of RA No. 3019.<sup>8</sup>

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

Accused also argues that since he was already suspended during the investigation by the Ombudsman, it is improper to suspend him again for the same case.

The argument of accused is misplaced.

It is basic that public officials are under a three-fold responsibility for a violation of their duty or for a wrongful act or omission, such that they may be held civilly, criminally and administratively liable for the same act. It was held that 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.<sup>9</sup> Hence, an action for each can proceed independently of the others.

<sup>7</sup> *Dela Cruz v. Sandiganbayan*, 622 Phil. 908-925 (2009).

<sup>8</sup> **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. (Emphasis supplied)

<sup>9</sup> *Gonzales v. Serrano*, G.R. No. 175433, 11 March 2015.

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The distinction between the three types of cases was explained in *Villaseñor v. Sandiganbayan*,<sup>10</sup> where the Supreme Court held that:

Significantly, there are three kinds of remedies that are available against a public officer for impropriety in the performance of his powers and the discharge of his duties: (1) civil, (2) criminal, and (3) administrative. These remedies may be invoked separately, alternately, simultaneously or successively. Sometimes, the same offense may be the subject of all three kinds of remedies.

Defeat of any of the three remedies will not necessarily preclude resort to other remedies or affect decisions reached thereunder, as different degrees of evidence are required in these several actions. In criminal cases, proof beyond reasonable doubt is needed whereas a mere preponderance of evidence will suffice in civil cases. In administrative proceedings, only substantial evidence is required.

It is clear, then, that criminal and administrative cases are distinct from each other. The settled rule is that criminal and civil cases are altogether different from administrative matters, such that the first two will not inevitably govern or affect the third and vice versa. Verily, administrative cases may proceed independently of criminal proceedings.

*Socrates v. Sandiganbayan*, citing the Court's pronouncements in *Luciano v. Provincial Governor*, recounted:

The Court then hastened to clarify that such a view may not be taken as an encroachment upon the power of suspension given other officials, reiterating in the process **that a line should be drawn between administrative proceedings and criminal actions in court, that one is apart from the other.**  
.. (Underscoring supplied)

***Based on the foregoing, criminal actions will not preclude administrative proceedings, and vice-versa, insofar as the application of the law on preventive suspension is concerned.*** (Emphasis supplied)

The suspension allegedly served by accused Paulate as imposed by the Ombudsman was in the exercise of the latter's disciplinary authority over all elective and appointive officials of the government. The Ombudsman can also preventively suspend any officer under its authority pending an investigation when the case so warrants.<sup>11</sup> On the other hand, the preventive suspension issued by the Sandiganbayan in this case, is pursuant to Sec. 13 of RA No. 3019, which is based on the criminal cases for covered offense/s.<sup>12</sup>

<sup>10</sup> 571 Phil. 373-386 (2008).

<sup>11</sup> *Office of the Ombudsman v. Apolonio*, 683 Phil. 553-576 (2012).

<sup>12</sup> The acts for which accused 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. [*Dela Cruz v. Sandiganbayan*, 622 Phil 908-925 (2009)].

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The Court also maintains that Sec. 62(c) of RA No. 7160, prohibiting the imposition of preventive suspension within 90 days before the local election does not apply to herein accused because the nature of suspension in this case stems from criminal cases under the anti-graft law – RA No. 3019.

The distinct nature of this suspension could even be gleaned from the issuances of COMELEC itself. In fact, on 07 January 2019, the COMELEC issued Resolution No. 10475, which provides for rules on the implementation of the provisions of Sec. 261, particularly subsection (x), of the Omnibus Election Code. The said law provides that the ban on suspension of elective local officials during election period does not cover cases for offense punishable under the Anti-Graft and Corrupt Practices Act. The pertinent portion of the COMELEC resolution reads:

**SECTION 1. Prohibited Acts.-** Section 261 of the Omnibus Election Code of the Philippines provides:

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*(x) Suspension of elective provincial, city, municipal or barangay officer.-* The provisions of law to the contrary notwithstanding during the election period, any public official who suspends, without prior approval of the Commission, any elective provincial, city, municipal or barangay officer, ***unless said suspension will be for purposes of applying the Anti-Graft and Corrupt Practices Act in relation to the suspension and removal of elective official; in which case the provision of this section shall be inapplicable.*** (Emphasis supplied)

Thus, considering that the criminal and administrative cases are separate and distinct from each other, the suspension of accused Paulate before the Ombudsman in the administrative case does not bar this Court from enforcing the mandatory preventive suspension imposed under Section 13 of RA No. 3019 pursuant to the criminal cases pending before it.

Further, the provisions of Section 13 of RA No. 3019, as well as current jurisprudence do not expressly prohibit the implementation of the suspension of elective officials like accused Paulate during election period. Hence, the Court has no other option except to immediately impose it. There is no reason to delay its imposition or to defer it. Otherwise, it would give undue preference to accused Paulate to the prejudice of other public officials who were meted the same. This Court will not shirk from its duty to impose the provisions of the law.

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*The Court is apolitical, it does not and will not engage in partisan politics*

Accused Paulate's allegation that the Court's suspension order was tainted with partisan politics and that it allowed itself, wittingly or unwittingly to be used by traditional politicians to forestall his political plans are serious accusations which could erode the trust and confidence of the people in our justice system. Accused's imputations towards the court are clearly malicious and unsubstantiated, and constitutes a blatant disrespect amounting to violation of the Code of Professional Responsibility.<sup>13</sup>

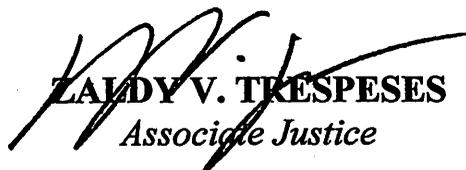
The Court emphasizes that the assailed resolution ordering his suspension under Section 13 of RA No. 3019 was supported by laws and relevant jurisprudence. The mere fact that such resolution was not favorable to accused does not necessarily mean that it was unjust. In fact, the motion itself is conspicuously barren of jurisprudential support and legal basis, although it is teeming with conjectures and unfair accusations directed towards the Court and the prosecution. However, what was clearly shown in the motion for reconsideration of accused Paulate is that it has not proffered any basis for this Court to reconsider its 11 March 2019 Order.

Nevertheless, the Court steadfastly assures accused that it is apolitical and will not in anyway, engage in partisan politics that would erode the public's trust to it as an institution.

**WHEREFORE**, premises considered, the Motion for Reconsideration filed by accused Roderick Mendenilla Paulate is **DENIED** for lack of merit.

**SO ORDERED.**

Quezon City, Philippines.

  
**LALDY V. TRESPESES**  
*Associate Justice*

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<sup>13</sup> **CANON 11** - a lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

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WE CONCUR:

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**  
*Associate Justice*  
**Chairperson**

  
**GEORGINA D. HIDALGO**  
*Associate Justice*

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