



REPUBLIC OF THE PHILIPPINES

Sandiganbayan  
Quezon City

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*Seventh Division*

***MINUTES of the proceedings held on May 17, 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-0293 – People of the Philippines vs. Apolinario T. Camsol, et al.***

This resolves the following:

1. Manifestation dated March 12, 2019<sup>1</sup> filed by the prosecution;
2. Comment to Manifestation dated March 22, 2019<sup>2</sup>, filed by accused Apolinario T. Camsol;
3. Comment dated May 10, 2019<sup>3</sup> filed by accused Camsol.

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**HIDALGO, J.**

This resolves the incident for the suspension *pendente lite* against accused Apolinario T. Camsol (accused Camsol), the Comment to Manifestation (with Apology) and Comment accused Camsol filed and the Manifestation filed by the prosecution dated March 12, 2019.

**ACTION TAKEN BY THE COURT**

After the Information was filed against all accused namely, Apolinario T. Camsol, Anecita Calabias Suyat (accused Suyat), Marcelino Pablo Endi (accused Endi), Asano Esteban Aban (accused Aban) for Violation of Section 3 (e) of Republic Act No. 3019, all accused were arraigned on January 25, 2019, and entered the plea of not guilty after all voluntarily waived the reading of the Information.

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<sup>1</sup> Record, Vol. 2, pp. 54 to 56

<sup>2</sup> Record, Vol. 2, pp. 65 to 66

<sup>3</sup> Record, Vol. 2, pp. 123 to 124

<sup>4</sup> *id*

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Additionally, on the said scheduled arraignment, Atty. Justine May M. Limson, made the following manifestation and stipulations;<sup>5</sup>

1. Accused Camsol was the former Municipal Mayor of Baguias, Benguet;
2. Accused Suyat was the former Municipal Treasurer of Baguias, Benguet;
3. Accused Endi was the former Municipal Accountant of Baguias, Benguet; and,
4. Accused Aban was the former Municipal Agriculture Officer of Baguias, Benguet.

Thus, dispensing with the introduction of evidence as to their previous public positions.

On March 13, 2019, the prosecution filed a Manifestation dated March 12, 2019, and informed this Court that accused Camsol was elected Sangguniang Panlalawigan Member of the Province of Benguet since 2016 and will serve in such capacity until June 30, 2019, as evidenced by the following:

1. a computer generated copy of accused Camsol's profile from the [official] website of the Provincial Government of Benguet;
2. a copy of his Identification Card with Identification Number 91323000021; and,
3. a copy of his Community Tax Certificate CCI2017-17531000.

On March 18, 2019, this Court issued a Resolution<sup>6</sup> directing accused (1) to show cause why he should not be preventively suspended from office pursuant to Section 13, RA No. 3019; and (2) to show cause why he should not be cited in contempt of Court for misrepresenting his status as a public official during the scheduled arraignment. Said resolution was received by accused Camsol on April 1, 2019 and by his counsel on April 2, 2019, as evidenced by the Registry Return Receipts attached to the record of this case.

On March 25, 2019, accused Camsol filed a Comment to Manifestation (with Apology) dated March 22, 2019<sup>7</sup>, offering his deepest apology saying that he did not intentionally misrepresent himself that he is not an incumbent member of the Sangguniang Panlalawigan Member of the Province of Benguet. He explained that his counsel merely asked his co-accused Suyat and did not ask anymore the other accused.

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<sup>5</sup> *id*

<sup>6</sup> Record, Vol. 2, p 63

<sup>7</sup> Record, Vol. 2, pp. 65 to 66

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A Resolution dated March 27, 2019<sup>8</sup>, this Court “NOTED AND ACCEPTED” as sufficient explanation of accused Camsol with a warning that the Court will no longer be lenient in dealing with any other act showing lack of candor.

On May 14, 2019, accused Camsol filed his Comment<sup>9</sup> on the directives<sup>10</sup> of this Court (1) to show cause why he should not be preventively suspended from office pursuant to Section 13, RA No. 3019; and (2) to show cause why he should not be cited in contempt of Court for misrepresenting his status as a public official during the scheduled arraignment.

In the said Comment, and as to the first directive, he respectfully begs the benevolence of this Court not to impose a preventive suspension upon him. He believes that since the cases against him are now pending before this court and the documents needed by the Office of Special Prosecutor are in its possession, there is no need to preventively suspend him. He adds that there is no more ongoing investigation in the Municipality of Buguias, Province of Benguet in which he might be considered to have influence in the outcome of such investigation. Finally, as to the second directive, he states that a Comment to Manifestation (with Apology) was already filed before this Court on March 25, 2019, and therefore, he is adopting the same as his answer to the second directive.

Thus, this resolution.

### **FINDINGS AND RULING OF THIS COURT**

#### ***Legal basis, concept, nature and applicability of suspension pendente lite under RA No. 3019***

The statutory basis for the imposition of suspension *pendente lite* is enshrined under **Section 13 of R.A. No. 3019**, as amended. It 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 7, 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

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<sup>8</sup> Record, Vol. 2, p. 68

<sup>9</sup> Record, Vol. 2, pp. 123 to 124.

<sup>10</sup> Record, Vol. 2, p 63. Resolution dated March 18, 2019 of this Court.

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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.”

The authority of Sandiganbayan to impose preventive suspension to any public officer falling under its jurisdiction was already settled in the case of *Perla A. Segovia, Reynaldo C. Santiago and Winifredo SM. Pangilinan vs. The Sandiganbayan, People of the Philippines and the President of the National Power Corporation*.<sup>11</sup>

In the said case, the Supreme Court ruled that, the Anti-Graft and Corrupt Practices Act implicitly recognizes that the power of preventive suspension lies in the court in which the criminal charge is filed; once a case is filed in court, all other acts connected with the discharge of court functions — including preventive suspension — should be acknowledged as within the competence of the court that has taken cognizance thereof, no violation of the doctrine of separation of powers being perceivable in that acknowledgment.

The Supreme Court likewise clarified that the provision of suspension *pendente lite* applies to all persons indicted upon a valid information under the Act, whether they be appointive or elective officials; or permanent or temporary employees, or pertaining to the career or non-career service.<sup>12</sup>

The term "office" in Section 13 of the law refers to any office which the officer might currently be holding and not necessarily the particular office in relation to which he is charged.<sup>13</sup>

The general rule is that it is mandatory for the court to place under preventive suspension a public officer accused before it. Imposition of suspension, however, is not automatic or self-operative.<sup>14</sup>

To warrant the preventive suspension of an accused for violating the provision of RA 3019, the following conditions must be present:

1. There must be a valid Information determined at a pre-suspension

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<sup>11</sup> GR No. 124067, March 27, 1998

<sup>12</sup> Preclaro v. Sandiganbayan, GR No. 111091, August 21, 1995

<sup>13</sup> Libanan vs. Sandiganbayan, GR. No. 112386, June 4, 1994

<sup>14</sup> Perla A. Segovia, et al., vs. The Sandiganbayan, et al., GR No. 124067, March 27, 1998

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hearing.<sup>15</sup>

2. That the accused must be charged with the covered offense, *i.e.* violation of RA 3019 (a) any offense involving fraud on the government; and (b) any offense involving public funds or property)<sup>16</sup> or crimes defined under Title Seven, Book II of the Revised Penal Code.<sup>17</sup>

We find that all of the requisites exist in the present case.

***There must be a valid Information determined at a pre-suspension hearing.***

In the present case, accused Camsol is charged with the covered offense for violation of Section 3 (e) of RA No. 3019. Definitely, the first component of the first requirement is complied with.

**Section 9, Rule 110, Rules of Court** provides the guideline for the determination of the validity or sufficiency of allegations in an information, to wit:

“SECTION 9. Cause of the Accusation. - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.”

The test is whether the crime is described in intelligible terms with such particularity as to appraise the accused, with reasonable certainty, of the offense charged. The *raison d'etre* of the rule is to enable the accused to suitably prepare his defense.<sup>18</sup>

Based on the foregoing test, the Information sufficiently apprises accused Camsol together with all of his co-accused of the charges against them. The Information charged them evident bad faith and/or manifest partiality of criminally giving unwarranted benefits, advantage and preference to PMB-Agro Goods and Services by awarding it the contract for

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<sup>15</sup> *id*

<sup>16</sup> Jose C. Miranda vs. Honorable Sandiganbayan, et al., GR No. 154098, July 27, 2005

<sup>17</sup> Flores vs. Layosa, GR No. 154714, August 12, 2004

<sup>18</sup> Ramon Y. Talaga, Jr. vs. Honorable Sandiganbayan 4<sup>th</sup> Division and the People of the Philippines, GR No. 169888, November 11, 2008

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the purchase of insecticides and fungicides sans any public bidding and with particular reference to brand names in violation of Republic Act No. 9184 (the Government Procurement Reform Act). These allegations are clear enough for a layman to understand and thus, satisfy the requirement of Section 9, Rule 110 of the 2000 Revised Rules on Criminal Procedure. It is for this reason that upon arraignment, accused Camsol entered a plea to the Information, without challenging the validity thereof.

### ***The pre-suspension hearing requirement***

In the case of *Segovia, et al., vs. Sandiganbayan*<sup>19</sup> the Supreme Court explained the importance of a pre-suspension hearing and thus ruled:

“A pre-condition therefor is the existence of a valid information, determined at a pre-suspension hearing. Such a hearing is in accord with the spirit of the law, considering the serious and far-reaching consequences of a suspension of a public official even before his conviction, and the demands of public interest for a speedy determination of the issues involved in the case.”

In *Sandavor P. Socrates vs. Sandiganbayan, Third Division and the People of the Philippines*<sup>20</sup>, the Supreme Court expatiated the requirement of a pre-suspension hearing and ruled that [a] pre-suspension hearing [is] conducted to determine basically the validity of the information, from which the court can have a basis to either suspend the accused and proceed with the trial on the merits of the case, or withhold the suspension of the latter and dismiss the case, or correct any part of the proceeding which impairs its validity.

The required 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 the pleadings.<sup>21</sup>

In the present case, the requirement of a pre-suspension hearing was complied with when accused Camsol was directed by this Court within ten (10) days from receipt of the Resolution dated arch 18, 2019 to: (a) show cause why he should not be preventively suspended from office and (b) to show cause why he should not be cited in contempt of Court for

<sup>19</sup> *supra* at Note 7

<sup>20</sup> GR No. 116259- 60, February 20, 1996

<sup>21</sup> Dionisio L. Torres and Enrico M. Alvarez vs. Hon. Francis Garchitorena, et al., GR No. 153666, December 27, 2002

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misrepresenting his status as a public official during his arraignment last January 25, 2019.

Record of the case reveals that he and his counsel received the said Resolution on April 1, 2019 and April 2, 2019, respectively, as shown by the Registry Return Receipts attached to the record of the case.

In the present case, accused Camsol filed two (2) Comments.

First, is the Comment to Manifestation (with Apology) dated March 22, 2019, asking the indulgence of this Court that he has no intention to mislead the Court about his public position.

Second, a Comment dated May 10, 2019, wherein he explained that since the cases against him are now pending before this court and the documents needed by the Office of Special Prosecutor are in its possession, there is no need to preventively suspend him. Not to mention the fact that there is no more ongoing investigation in the Municipality of Buguias, Province of Benguet in which he might be considered to have influence in the outcome of such investigation. We find these arguments misplaced.

In the present case, we should not lose sight of the fact that accused Camsol is an incumbent government official (having been elected as member of the Sangguniang Panlalawigan of the Province of Benguet in 2016 National and Local Elections and will serve in such capacity until June 30, 2019) and logically possesses influence. Thus, there is an imperative need to see to it that he will not in any way, either directly or indirectly, intimidate or influence any witness that the prosecution may call to the witness stand, nor he shall use his position to tamper documentary evidence or committing further acts of malfeasance while in the office.

In fine, preventive suspension under Section 13 of R.A. No. 3019 being mandatory, the Court possesses no discretion to determine whether it is necessary to forestall the possibility that the accused may use his office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance.<sup>22</sup>

**WHEREFORE**, premises considered, accused Apolinario Tino Camsol is hereby ordered preventively suspended from office as a Member of Sangguniang Panlalawigan of the Province of Benguet.

Accused Camsol is directed to cease and desist from further performing and/or exercising the functions, duties and privilege of his position as Member of Sangguniang Panlalawigan of the Province of

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<sup>22</sup> Dela Cruz vs. Sandiganbayan, GR No. 161929, December 8, 2009

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Benguet or any other government position he 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 Secretary of the Department of the Interior and Local Government for the implementation of this order of suspension on said accused. The said office 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, including the actual date when said accused commenced to serve his suspension and the date of its expiration after a period of ninety (90) days, so that his suspension shall be deemed automatically lifted at that time.

**SO ORDERED.**

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

**WE CONCUR:**

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

  
**ZALBY V. TRESPESES**  
*Associate Justice*