



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on August 14, 2019.

Present:

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

Justice ZALDY V. TRESPESES -----Member

Justice BAYANI H. JACINTO -----Member*

The following resolution was adopted:

SB-17-CRM-1671 – People v. Peter Paul Jed C. Falcon, et al.

On August 8, 2019, accused Roberto M. Luna, Jr. (“accused Luna”) submitted a Manifestation¹ that he is currently the incumbent Municipal Mayor of Lingig, Surigao del Sur, having been elected to said position in the 2019 Elections,² and said accused now voluntarily submits himself to a preventive suspension pursuant to Section 13 of *Republic Act No. 3019 (R.A. 3019)*. Accused Luna thus prayed that he be preventively suspended for a period of ninety (90) days, beginning August 15, 2019.

Section 13 of *R.A. 3019* provides:

SEC. 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 from office.

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Accused Luna was arraigned and pleaded not guilty under a valid Information for violation of Section 3 (e) of *R.A. 3019*. Section 13, *supra*, makes it mandatory for this Court to suspend any public officer against whom a valid information is filed charging a violation of said law, Title 7, Book II of

* Per Administrative Order No. 331-2019 dated August 13, 2019

¹ Records, Vol. 5, pp. 61-62

² *Vide: Panunumpa sa Katungkulan* dated June 14, 2019 attached the Manifestation dated August 8, 2019 filed by accused Luna (Records, Vol. 5, p. 63)

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the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property.³ Once the information is found to be sufficient in form and substance, then the Court must issue the order of suspension as a matter of course.⁴ There are no ifs and buts about it.⁵

The Court possesses no discretion, not even liberality, 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 the prosecution of the case, commit further acts of malfeasance, or do both.⁶

As to the duration of suspension, it is settled that the preventive suspension may not be of indefinite duration or for an unreasonable length of time; it would be constitutionally proscribed otherwise as it raises, at the very least, questions of denial of due process and equal protection of the laws. The Court has thus laid down the rule that preventive suspension may not exceed the maximum period of ninety (90) days in consonance with *Presidential Decree No. 807* (the *Civil Service Decree*), now Section 52 of the *Administrative Code of 1987*.⁷

Under these circumstances, the preventive suspension of accused Luna is warranted as prayed for.

WHEREFORE, pursuant to Section 13 of *R.A. 3019*, accused Roberto M. Luna, Jr. is hereby preventively suspended from his position as Municipal Mayor of Lingig, Surigao del Sur and from any public office which he may now or hereafter be holding for a period of ninety (90) days starting August 15, 2019.

Let a copy of this Resolution be furnished the Secretary of the Department of Interior and Local Government for the implementation of the order of preventive suspension on said accused. Said office is further requested to inform this Court of the date the accused started serving his suspension *pendente lite* and the date of its termination.

The preventive suspension of the accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.

³ *Flores v. Layosa*, G.R. No. 154714, August 12, 2004


⁴ *Ibid*

⁵ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

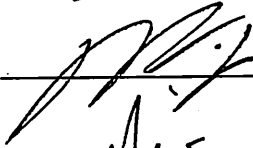
⁶ *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009, citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996)

⁷ *Layus v. Sandiganbayan*, G.R. No. 134272, December 8, 1999, which cited *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998

GOMEZ-ESTOESTA, J., Chairperson



TRESPESES, J.



JACINTO, J.

