



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-15-CRM-0284 to 0285
For: Violation of Section 3(e)
of R.A. 3019 as amended

- versus -

CELESTINO MARTINEZ III, ET AL., Present :
Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

SEP 03 2019

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RESOLUTION

FERNANDEZ, SJ, J.

For resolution is the suspension *pendente lite* of accused Julio S. Ursonal, Jr. under Section 13 of Republic Act No. 3019.

In a *Resolution* dated May 22, 2019,¹ pursuant to Rule VIII, Sec. 4 of the 2018 *Revised Internal Rules of the Sandiganbayan*,² the Court ordered accused Julio S. Ursonal, Jr. to show cause why he should not

¹ Record, Volume 5, p. 409.

² *Sec. 4. Suspension Pendente Lite.* - After the arraignment of an accused public officer against whom a valid information charging any of the violations referred to in Section 13 of R.A. No. 3019 is filed, the Sandiganbayan shall *motu proprio* give the said accused a non-extendible period of ten (10) calendar days from notice within which to explain in writing why he should not be preventively suspended. Thereafter, the Sandiganbayan shall issue an order of preventive suspension of the accused, if found warranted under the aforesaid provision of R.A. No. 3019, as well as applicable decisions of the Supreme Court.

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be suspended *pendente lite* in accordance with Section 13 of Republic Act No. 3019.

In *Accused Ursonal's Explanation for Non-preventive Suspension*,³ said accused argued:

1. He should not be preventively suspended because the Information charges him of having signed on behalf of the Philippine Government or its Local Government Unit while the evidence presented by the prosecution shows that he signed on behalf of a private cooperative.
2. It would be the height of injustice for the Sandiganbayan to suspend him from public office pending criminal prosecution of an *Information* belied by its own evidence.
3. The spirit and the letter of Section 13 of R.A. No. 3019 do not apply in his case.
 - i. He can no longer subvert the prosecution of the case. The Ombudsman already presented its witnesses in court and has already rested its case. As well, he has no chance of destroying the evidence for this case.
 - ii. Section 13 of R.A. No. 3019 was enacted to eradicate any possibility that a public official, accused of fraud or bribery, may repeat the offense while in office. Since he only acted as a representative of a private entity, Sec. 13 is not applicable to him.
 - iii. He only relied on the assurance of his subordinates, the law and upon persons of authority that the financial aid was lawful.
4. The Ombudsman found him innocent of any administrative liability. The Ombudsman even spared him from any preventive suspension during the pendency of the administrative investigation based on the same facts. It would be unjust to impose preventive suspension upon him pending criminal charges after it was already resolved in the administrative case that the charge against him was baseless.

THE COURT'S RULING

The Court finds accused Ursonal's contentions without merit.

³ Dated July 2, 2019, filed by mail and received by the Court on July 13, 2019.



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Sec. 13 of R.A. No. 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 complex offense and in whatever stage of execution and mode of participation, 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.

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(underscoring supplied)

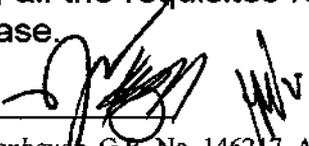
Under the aforequoted provision, suspension from public office is mandatory whenever a valid Information charges an incumbent public officer with (1) violation of R.A. No. 3019; (2) violation of Title 7, Book II of the Revised Penal Code (RPC); (3) any offense involving fraud upon government; or (4) any offense involving fraud upon public funds or property.⁴

In this case, the Court finds all the requisites for the imposition of suspension *pendente lite* of accused Ursonal pursuant to Sec. 13 of R.A. No. 3019, existing.

The records show that accused Ursonal is the incumbent City Treasurer of Bogu City, Cebu.⁵

He is charged under valid Informations for violation of Sec. 3 (e) of R.A. No. 3019. Accused Ursonal did not challenge the validity of the Informations. Accordingly, he was arraigned on November 24, 2015.⁶ Thus, in so far as the Court is concerned, there is no more question as to the validity of the Information.

Indeed, all the requisites required under Sec. 13 of R.A. No. 3019 exist in this case.


⁴ *Bustillo v. Sandiganbayan*, G.R. No. 146217, April 7, 2006.

⁵ *Annex B, Motion to Allow Travel Abroad* dated October 8, 2018; Record, vol. 4, pp. 163.

⁶ Record, vol. 1, p. 88-89.

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To avert suspension, accused Ursonal argues that it would be the height of injustice to suspend him considering that the evidence of the prosecution belie the allegations in the Informations.

The Court finds such contention without merit.

The sufficiency and relevance of the evidence presented by the prosecution, in relation to the allegations in the Information, is immaterial in the Court's determination of the propriety of suspending an accused public officer *pendente lite* under Sec. 13 of R.A. No. 3019. Suspension under said provision is not a penalty but a mere preventive measure. The Court need not even look into the evidence presented by the prosecution. The law simply calls for the Court to determine whether the Information, charging an accused incumbent public officer for any of the offenses mentioned under the law, is valid and sufficient in form and in substance.

The case of *Socrates vs. Sandiganbayan*⁷ is enlightening, *to wit*:

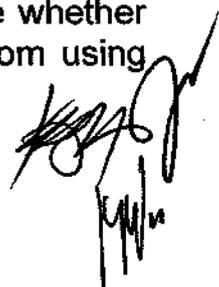
Once the information is found to be sufficient in form and substance, then the court must issue the order of suspension as a matter of course. There are no ifs and buts about it. This is because a preventive suspension is not a penalty. It is not imposed as a result of judicial proceedings. In fact, if acquitted, the official concerned shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension. In view of this latter provision, the accused elective public officer does not stand to be prejudiced by the immediate enforcement of the suspension order in the event that the information is subsequently declared null and void on appeal and the case dismissed as against him. Taking into consideration the public policy involved in preventively suspending a public officer charged under a valid information, the protection of public interest will definitely have to prevail over the private interest of the accused.

Accused Ursonal further contends that there is no need for him to be suspended *pendente lite* because the prosecution already presented its evidence and has already rested its case, therefore, he can no longer subvert the prosecution of his case.

The Court is not convinced.

The Court has neither discretion nor duty to determine whether preventive suspension is required to prevent an accused from using

⁷ *Socrates vs. Sandiganbayan*, 253 SCRA 773, 794-797 (1996).



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his office to intimidate witnesses or frustrate his prosecution.⁸ The law already creates a presumption that unless the accused is suspended, he may frustrate his prosecution or commit further acts of malfeasance while in office, or do both.⁹ Besides, the Supreme Court made it clear in *Talaga v. Sandiganbayan*,¹⁰ citing its pronouncement in *Bolastig v. Sandiganbayan*,¹¹ that the possibility that the accused would intimidate witnesses or otherwise hamper his prosecution is just one of the purposes for preventive suspension. The other one is, to prevent the accused from committing further acts of malfeasance while in office. To this end, the law was made to apply to **any incumbent public officer**.¹²

Finally, accused Ursonal argues that he should not be suspended *pendente lite* because he was relieved from any liability in the administrative case filed against him and was not even suspended during the administrative investigation for the same transaction.

Such contention, however, is erroneous. This Court is not bound to adopt the findings in the administrative proceedings against the accused. Neither is the Court bound to take cognizance of the procedure conducted therein. The criminal liability of an accused public officer is separate and distinct from his administrative liability, even if both cases may have arisen from the same or similar acts. The settled rule is that criminal and civil cases are altogether different from administrative matters, such that the disposition in the first two will not inevitably govern the third and vice versa.¹³

In view of the foregoing, as all the requisites imposed by Sec. 13 of R.A. No. 3019 are present in this case, this Court is duty-bound to order the suspension of accused Ursonal from public office.

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. Such preventive suspension is mandatory, and there are no 'ifs' and 'buts' about it.¹⁴

WHEREFORE, premises considered, the Court orders the suspension *pendente lite* of accused **JULIO S. URSONAL** as the City

⁸ 235 SCRA 103.

⁹ *Miguel vs. Sandiganbayan*, G.R. No. 172035, July 4, 2012.

¹⁰ G.R. No. 169888, November 11, 2008.

¹¹ G.R. No. 110503, August 4, 1994.

¹² Sec. 13, R.A. No. 3019.

¹³ *Suzuki v. Tiamson*, Adm. Case No. 6542, September 30, 2005.

¹⁴ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004.

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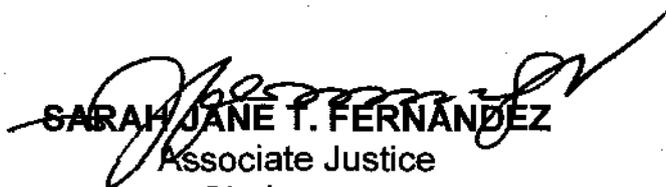
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Treasurer of Bogu City, Cebu and from any other public positions he may now or hereafter hold for a period of ninety (90) days from receipt of this Resolution.

Let a copy of this Resolution be furnished the Executive Director of the Bureau of Local Government Finance for the implementation of this order of suspension. The Executive Director is requested to inform the Court of the action taken thereon within fifteen (15) days from receipt hereof.

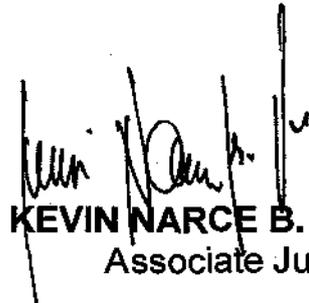
The suspension of the accused shall automatically be lifted upon the expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice