



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-1385

For: Violation of Section 3 (e) of
Republic Act (R.A.) No. 3019

-versus-

PRESENT:

**AILEEN CYNTHIA M.
AMURAO, et al.,**

Accused,

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, &
VIVERO, JJ.

Promulgated:

SEP 05 2019

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RESOLUTION

MIRANDA, J.:

This resolves the preventive suspension of accused Aileen Cynthia Maggay Amurao (Amurao).

In its Order dated July 23, 2019 and pursuant to Section 4, Rule VIII of the Revised Internal Rules of the Sandiganbayan,¹ the Court directed

¹ Section 4, Rule VIII of the Revised Internal Rules of the Sandiganbayan:

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 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.

[Handwritten signatures]

accused Amurao to show cause why she should not be suspended in accordance with Section 13 of R.A. No. 3019.²

In her Compliance and Manifestation dated August 7, 2019, accused Amurao claimed that she should not be suspended because a violation of R.A. No. 6713 is not one of the offenses covered by the mandatory suspension under Section 13 of R.A. No. 3019.

The Court disagrees with accused Amurao.

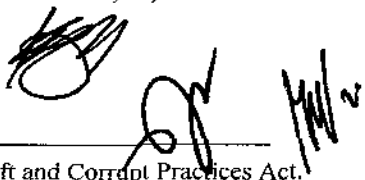
The offense charged against accused Amurao is covered by the rule on preventive suspension under Section 13 of R.A. No. 3019.

Section 13 of R.A. No. 3019, as amended, 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. 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.

In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to retribute the same to the government.³

Based on this provision, preventive suspension should be imposed upon the accused who is charged with the following offenses: 1) violation of R.A. No. 3019; 2) violation of Title 7, Book II of the Revised Penal Code



² Anti-Graft and Corrupt Practices Act.

³ Emphasis supplied.

(R.P.C); 3) **any offense involving fraud upon government;**⁴ and 4) **any offense involving public funds or property.**⁵

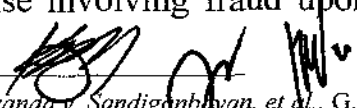
In this case, accused Amurao is charged with solicitation of money and other favors from private individuals and entities for the tourism activities of the City Government of Puerto Princesa in violation of Section 7 (d) of R.A. No. 6713⁶. The Information dated March 5, 2015 reads:

That on or about the period between February 2014 to April 2014 or sometime prior or subsequent thereto, in Puerto Princesa City, Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers, **Aileen Cynthia Maggay Amurao**, being the City Tourism Officer and Head of the City Tourism Department, Ma. Joyce Cabanag Enriquez, Tourism Operations Assistant, Michie Hitoris Meneses, Tourism Operations Officer I, Michael Angelo Lucero Aquino Jr., contractual Tourism Operations Assistant, all of the City Tourism Department, City Government of Puerto Princesa City, Palawan, while in the performance of their functions, taking advantage of their positions, committing the offense in relation to their office, and conspiring and confederating with each other, did then and there, willfully, unlawfully, and criminally **solicit or accept, directly or indirectly, any gift, gratuity, or favor, entertainment, loan or anything of monetary value from tourism-oriented and private entities or individuals by sending them solicitation letters for sponsorship of the City Government of Puerto Princesa's tourism activities and related projects, supervised by the accused.**

CONTRARY TO LAW.⁷

Contrary to the assertion of accused Amurao, the offense charged in the Information dated March 5, 2015 is considered both an offense involving fraud upon the government, and an offense involving public funds or property.

First, the term "fraud" is defined as "an instance or an act of trickery or deceit especially when involving misrepresentation: an act of deluding".⁸ An offense involving fraud upon the government is an act of trickery or


⁴ *Jose C. Miranda v. Sandiganbayan, et al.*, G.R. No. 154098, July 27, 2005.

⁵ *Rafael T. Flores, et al., v. Hon. Lydia Querubin Layosa, et al.*, G.R. No. 154714, August 12, 2004.

⁶ Code of Conduct and Ethical Standards for Public Officials and Employees.

⁷ Emphasis supplied.

⁸ *Supra, Miranda v. Sandiganbayan* citing Webster's Third New International Dictionary of the English Language Unabridged, p. 904 (1993).

deceit against the government. Here, private complainants Doris Suelo, Sheryl Lynn Lebante, and Engilbert Alvarez alleged in their Affidavit dated August 29, 2014 that some of the amounts solicited from private individuals and entities went to the personal and individual bank accounts of accused Amurao.⁹ Fraud upon the government was committed when the money received from solicitations were deposited in the personal bank account and were allegedly used by accused Amurao for her personal consumption.

Second, the money solicited from private individuals and entities are public funds allotted for the tourism activities of the City Government of Puerto Princesa. The acts complained of against accused Amurao clearly constitute an offense involving public funds.

The preventive suspension under Section 13 of R.A. No. 3019 is mandatory.

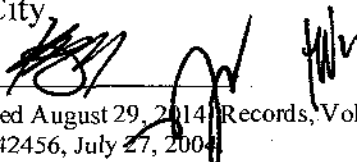
Preventive suspension under Section 13 of R.A. No. 3019 is mandatory. In *Beroa v. Sandiganbayun*,¹⁰ the Supreme Court emphasized:

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 criminal prosecution under RA 3019 or Title 7, Book II of the Revised Penal Code or for any offense involving public funds or property or fraud on government. This Court has repeatedly held that such preventive suspension is mandatory, and there are no ifs or buts about it.¹¹

To warrant the preventive suspension of the accused, the following conditions must concur: 1) accused is an incumbent public official; and 2) accused must be charged under a valid information for violation of R.A. No. 3019, as amended, or Title 7, Book II of the R.P.C. or for any offense involving fraud upon government or public funds or property.

In this case, both conditions are present.

First, accused Amurao is an incumbent public official. Accused Amurao never denied in her Compliance and Manifestation dated August 7, 2019 that she is the incumbent head of the Office of the City Tourism of Puerto Princesa City.


⁹ Affidavit dated August 29, 2014, Records, Vol. 1, pp. 24-26.

¹⁰ G. R. No. 142456, July 27, 2004.

¹¹ Emphasis supplied.

Second, the Information dated March 5, 2015 filed against accused Amurao and her co-accused is valid. She was arraigned on August 3, 2017, during which she entered a plea of “not guilty” to the charge in the said Information.¹²

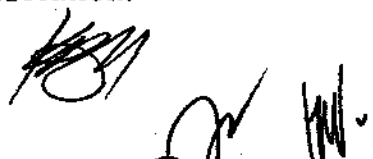
Having entered her plea, accused Amurao is deemed to have waived any objection she may have on the validity of the Information under which she was charged, except on the following grounds: 1) the Information charges no offense; 2) the Court has no jurisdiction over the offense charged; 3) the penalty or the offense has been extinguished; and 4) double jeopardy has attached.¹³ There is nothing in the records to show that accused Amurao sought the dismissal of this case on any of the said grounds.

With the concurrence of the two conditions, the preventive suspension of accused Amurao becomes mandatory. Once the Information is found to be sufficient in form and substance or its validity is determined, it becomes the ministerial duty of this Court to issue an order of preventive suspension against the accused.¹⁴

Section 13 of R.A. No. 3019, as amended, unequivocally provides that the accused public officials “shall be suspended from office” while the criminal prosecution is pending in court. The court 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.¹⁵

WHEREFORE, premises considered, accused **AILEEN CYNTHIA MAGGAY AMURAO** is ordered **SUSPENDED *pendente lite***, for a period of ninety (90) days, as Head of the Office of the City Tourism of Puerto Princesa City, or any other public position she may now or hereafter be holding.

Accused Aileen Cynthia Maggay Amurao is ordered to **CEASE AND DESIST** from further performing and/or exercising the functions, duties, and privileges of her position upon the implementation of this Order of Preventive Suspension. The suspension of the accused shall be automatically lifted upon the expiration of the 90-day period from the implementation of this resolution.



¹² Order dated August 3, 2017, Records, Vol. 1, p. 108-A.

¹³ *Supra*, Jose C. Miranda v. Sandiganbayan, et al.

¹⁴ Marcelino C. Libanan v. Sandiganbayan, G.R. No. 112386, June 14, 1994; Emphasis supplied.

¹⁵ Bolastig v. Sandiganbayan, G.R. No. 110503, August 4, 1994.

RESOLUTION

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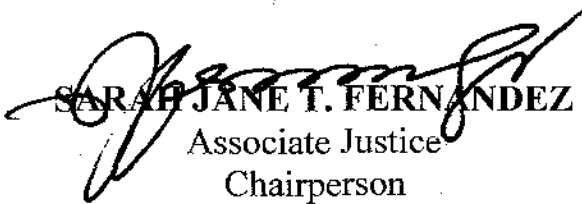
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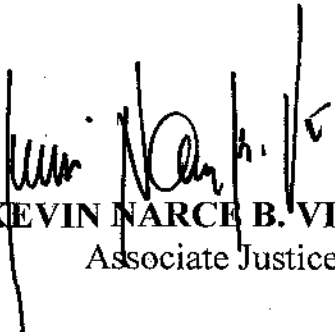
Let a copy of this Resolution be furnished the Secretary of the Department of the Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary of the DILG, or his duly authorized representative, is directed to inform the Court of the action taken thereon, the actual date of the implementation of the suspension, and the expiry date of the 90-day period, within fifteen (15) days from receipt hereof.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice