



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
Quezon City

**SEVENTH DIVISION**

***MINUTES of the proceedings held on September 4, 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-17-CRM-1809 to 1810 - People of the Philippines vs. Constantino Huit Cordial, Jr., et al.***

This resolves the following:

1. Comment / Opposition to the Oral Motion Calling for Preventive Suspension dated August 9, 2019,<sup>1</sup> filed by accused Irene Ranara Breis; and
2. Urgent Manifestation dated August 23, 2019,<sup>2</sup> filed by the prosecution.

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**HIDALGO, J.:**

For the Court's Resolution is the question whether accused **Irene Ranara Breis (Breis)** should be preventively suspended from exercising her functions as re-elected Vice-Mayor of the Municipality of Caramoan, Camarines Sur. During the trial last July 18, 2019, which was converted into a Pre-Suspension Hearing, Breis was given a period of ten (10) days to explain to this Court why preventive suspension should not be imposed upon

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<sup>1</sup> Record, Vol. 2, pp. 338-340.

<sup>2</sup> Record, Vol. 2, pp. 341-344.

her following Section 13 of RA 3019, and Section 4<sup>3</sup> Rule<sup>0</sup> VIII of the Revised Internal Rules of the Sandiganbayan.<sup>4</sup>

In her *Comment / Opposition to the Oral Motion Calling for Preventive Suspension*,<sup>5</sup> Breis presented the lone argument that the instant case against her is not among the cases covered by the mandatory provision of Section 13, RA 3019. She insists that the mandatory imposition of preventive suspension embodied in said provision is only applicable to the following cases:

- a. a valid information under RA 3019;
- b. a valid information under Title 7, Book II of the Revised Penal Code (RPC); or
- c. a valid information for any offense involving fraud upon government or public funds or property.<sup>6</sup>

She emphasizes that she is being indicted for two counts of **Falsification of Official Documents under Article 171 par. 2 of the RPC**. This, according to her, does not fall under any of the above enumerated provisions covered by Section 13.

In its *Urgent Manifestation*,<sup>7</sup> the prosecution counters Breis' argument and maintains that it did not orally move for her preventive suspension. Instead, it merely "invoked the provision of Section 13 of RA 3019 in relation to Section 4 of Rule VIII of the Revised Internal Rules of the Sandiganbayan concerning suspension *pendente lite* which could be done *motu proprio* by the court."<sup>8</sup> In other words, per the prosecution, upon learning of Breis' re-election during the hearing, it was necessary for the prosecution to call the attention of this Court regarding the effect of the pending case to her incumbency as an elected public official. It was, according to it, not a motion. Too, no motion is needed since the court could accordingly suspend the accused *pendente lite* at its own instance as a matter of course.<sup>9</sup>

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<sup>3</sup> *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.

<sup>4</sup> Records, Vol. 2, pp. 334-335.

<sup>5</sup> Records, Vol. 2, pp. 338-340.

<sup>6</sup> Records, Vol. 2, p. 339.

<sup>7</sup> Records, Vol. 2, pp. 341-344.

<sup>8</sup> Records, Vol. 2, p. 341.

<sup>9</sup> Records, Vol. 2, p. 342.

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As regards the question whether Section 13 covers the crime charged, the prosecution contends that Article 171, RPC is covered by the phrase "*any offense involving fraud upon the government*" found in Section 13. In fact, the prosecution said, "it xxx suffices that the accused is afforded the opportunity of challenging the validity or regularity of the proceedings against him and that the information charging the accused of any of the offenses mentioned under Section 13, [RA 3019] is found to be valid before the court suspends the accused *pendente lite*."<sup>10</sup>

With these, the prosecution seeks the outright denial of Breis' Comment/Opposition.

### FINDINGS AND RULING OF THE COURT

This Court finds the imposition of preventive suspension upon accused Breis pursuant to Section 13, RA 3019 to be in order.

The provision of law upon which the propriety of the imposition of preventive suspension upon Breis hinges on is Section 13 of RA 3019, as amended. Said provision reads:

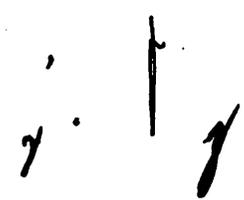
**Section 13. Suspension and loss of benefits.** - An incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code, or for any offense involving fraud upon government or public funds or property whether as a simple or 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.

For preventive suspension thereunder to be valid, the following requisites must be met:

1. There must be a valid Information determined at a pre-suspension hearing;
2. That the accused must be charged with any of the covered offenses:

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<sup>10</sup> Records, Vol. 2, p. 343.



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- a. violation of RA 3019;
- b. violation of Title 7, Book II of the Revised Penal Code;
- c. any offense involving fraud on the government; or
- d. any offense involving fraud on public funds or property.<sup>11</sup>

**First Requisite: Valid Information  
determined at a Pre-Suspension Hearing**

It is elementary that the validity and sufficiency of the allegations in an Information is determined according to the provisions of Section 9 of the Revised Rules of Criminal Procedure, *viz*:

**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.<sup>12</sup>

The test is whether the crime is described in intelligible terms with such particularity as to apprise the accused, with reasonable certainty, of the offense charged.<sup>13</sup>

On this matter, suffice it to state that such requisite has been adequately met. In fact, Breis herself made no mention thereof nor did she, or any of her co-accused, question the validity of the Information even prior to this development. Also, in *Miranda*,<sup>14</sup> entering a negative plea to the Information, as in the instant case, was considered as a tacit acquiescence to the validity thereof. The following pronouncements of the Supreme Court in said case support the favorable conclusion, thus:

The records show that petitioner did not file a motion to quash the information or a motion for bill of particulars before pleading to the information. It is basic that entering a plea waives any objection the petitioner may have to the validity of the information except on the following grounds: (1) the information charges no offense; (2) the trial court has no jurisdiction over the offense charged; (3) the penalty or the offense has been extinguished; and (4) double jeopardy has attached.

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<sup>11</sup> See *Bustillo v. Sandiganbayan*, G.R. No. 146217, April 7, 2006.

<sup>12</sup> See *Miranda v. Sandiganbayan*, G.R. No. 154098, July 27, 2005.

<sup>13</sup> *Miranda v. Sandiganbayan*, G.R. No. 154098, July 27, 2005.

<sup>14</sup> *Miranda v. Sandiganbayan*, G.R. No. 154098, July 27, 2005.

As for the required pre-suspension hearing, it is likewise equally settled that the said hearing need not be a full-blown one. What is required only is that the accused be given a fair and adequate opportunity to challenge the validity of the Information through the filing of pleadings.<sup>15</sup> *Socrates v. Sandiganbayan*<sup>16</sup> further clarifies 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."

Here, said requisite was sufficiently met when the Court, during the July 18, 2019 setting which was later converted into a Pre-Suspension Hearing, gave Breis ten (10) days to explain why preventive suspension should not be imposed upon her following Section 13 of RA 3019, and Section 4 Rule VIII of the Revised Internal Rules of the Sandiganbayan.<sup>17</sup> In compliance with said directive, Breis filed her *Comment / Opposition to the Oral Motion Calling for Preventive Suspension* dated August 9, 2019,<sup>18</sup> to which the prosecution replied via its *Urgent Manifestation* dated August 23, 2019.<sup>19</sup> It is thus readily apparent that Breis was given sufficient opportunity to challenge the validity of the Information through the filing of pleadings, in compliance with the law and applicable rules, thereby sealing the presence of the first requisite.

Having settled these, we shall now deal with the more substantive issue, that is, whether Article 171, RPC, is covered by Section 13, RA 3019.

**Second Requisite: Accused must be charged  
with any of the covered offenses**

In the instant case, accused Breis was charged with violation of Article 171 (2) of the Revised Penal Code (Falsification of Official Document). This is clear from the Information filed against her and her co-accused, which reads:

The undersigned Graft Investigation and Prosecution Officer III,

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<sup>15</sup> *Torres, et al. v. Garchitorena, et al.*, G.R. No. 153666, December 27, 2002.

<sup>16</sup> G.R. No. 116259-60, February 20, 1996.

<sup>17</sup> Records, Vol. 2, pp. 334-335.

<sup>18</sup> Record, Vol. 2, pp. 338-340.

<sup>19</sup> Record, Vol. 2, pp. 341-344.

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Office of the Deputy Ombudsman for Luzon, hereby accuses Municipal Mayor **CONSTANTINO HUIT CORDIAL, JR.**, Municipal Vice-Mayor **IRENE RANARA BREIS**, and Sangguniang Bayan secretary **DANILO OBIAS BELLEZA**, all of the Municipality of Caramoan, Camarines Sur, for Falsification of Public Document defined and penalized under Article 171 paragraph 2 of the Revised Penal Code, committed as follows:

That on or about March 24, 2014, in the Municipality of Caramoan, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, accused **CONSTANTINO HUIT CORDIAL, JR.**, Municipal Mayor, **IRENE RANARA BREIS**, Vice Mayor, and **DANILO OBIAS BELLEZA**, Sangguniang Bayan Secretary, all public officials, all of the Municipality of Caramoan, Camarines Sur, taking advantage of their official positions and committing the offense in relation to their office, in connivance and conspiracy with each other, did then and there, willfully, unlawfully, and feloniously falsify Resolution No. 48-A entitled "*Resolution Earnestly Requesting Honorable DILG Secretary Mar A. Roxas of the Department of Interior and Local Government for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Camarines Sur,*" an official document, by causing it to appear that Councilors Eduardo B. Bonita, Lydia C. Obias and Francis R. Benemerito participated and attended in the deliberations of the said resolution on March 24, 2014, and that it was unanimously approved by all the members of the Sangguniang Bayan of Caramoan, when in truth and in fact, as the accused well knew, that Councilors Bonita, Obias and Benemerito did not so participate nor attend during its deliberation and neither was it unanimously approved by all the members of the Sangguniang Bayan of Caramoan, to the damage and prejudice of the public interest.

**CONTRARY TO LAW.**<sup>20</sup>

In order to convince this Court that preventively suspending her from office is improper, Breis maintains that a violation of Article 171, RPC does not fall under any of the violations specified in Section 13 of RA 3019. We disagree.

Guilty of repetition, the covered violations are:

- a. violation of RA 3019;
- b. violation of Title 7, Book II of the Revised Penal Code;
- c. **any offense involving fraud on the government;** or
- d. any offense involving fraud on public funds or property.<sup>21</sup>

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<sup>20</sup> Record, Vol. 2, pp. 001-003.

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To the mind of the Court, the crime of Falsification of a document committed by a public officer penalized under Article 171 falls within the purview of an "offense involving fraud on the government" under Section 13.

Article 171, Title 4 [Crimes against Public Interest], Book II of the RPC reads:

**Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister.** — The penalty of prison mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

xxx;

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

xxx.

The elements of the crime of Falsification of Official Document in the instant case are as follows:

1. The offender is a public officer or employee or a notary public;
2. The offender takes advantage of his official position; and
3. He or she falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code,<sup>22</sup> specifically, by causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate.

While admittedly, there is no mention of "fraud" nor "deceit" or "misrepresentation" in the above, this, however, does not automatically remove the crime of falsification from the genre of "fraudulent acts". Such was the stand of the Supreme Court in a number of cases where it clearly and unequivocally settled the matter in favor of the validity of the imposition of preventive suspension upon the accused.

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<sup>21</sup> See *Bustillo v. Sandiganbayan*, G.R. No. 146217, April 7, 2006.

<sup>22</sup> *Garong v. People*, G.R. No. 172539, November 16, 2016.

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"Fraud" has been defined by the Court as "[a]n instance or an act of trickery or deceit esp. when involving misrepresentation: an act of deluding."<sup>23</sup> In *Miranda v. Sandiganbayan, et al.*,<sup>24</sup> the Supreme Court emphasized that the phrase "fraud upon government" means "any instance or act of trickery or deceit against the government."<sup>25</sup> It cannot be read restrictively so as to be equivalent to malversation of funds as this is covered by the preceding phrase "any offense involving ... public funds or property."<sup>26</sup> There, the Court proceeded to clarify that fraud "xxx in general sense[,] is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust or confidence justly reposed, resulting in damage to another or by which an undue and unconscious advantage is taken of another (37 Am. Jur. 2d 19 at Sec. 19)."<sup>27</sup>

Applied to Article 171 vis-a-vis Section 13, the Supreme Court, in the case of *Bustillo v. Sandiganbayan*,<sup>28</sup> ruled that "[w]hile petitioner correctly contends that the charge filed against him and his co-accused does not fall under Title 7, Book II but under Title 4, Book II of the RPC, it nevertheless involves "fraud upon government or public funds or property."

In the same vein, the Court *Hadji Hashim Abdul v. Sandiganbayan*,<sup>29</sup> stated thusly:

xxx, petitioner nevertheless implores us to make a clear and categorical resolution on whether the offense of falsification of public documents under Article 171 of the RPC is included in the term "fraud" as contemplated under Section 13 of RA 3019. xxx The relevant question now is whether falsification of public documents is considered as fraud upon government or public funds or property. This issue is not of first impression. Close but not exactly similar with the factual backdrop of this case is *Bustillo v. Sandiganbayan*. Petitioner therein was charged with falsifying municipal vouchers which, as used in government, are official documents. He asserted that the said offense does not involve "fraud or property," hence, his suspension finds no basis in Section 13 of RA 3019, the Court held in said case that the same is understood in its general sense, that is, referring to "an instance or an act of trickery or deceit especially when involving misrepresentation."<sup>30</sup> (citations omitted)

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<sup>23</sup> Webster's Third New International Dictionary of the English Language Unabridged, p. 904 (1993), cited in *Miranda v. Sandiganbayan, et al.*, G.R. No. 154098, July 27, 2005.

<sup>24</sup> G.R. No. 154098, July 27, 2005.

<sup>25</sup> *Miranda v. Sandiganbayan, et al.*, G.R. No. 154098, July 27, 2005.

<sup>26</sup> *Miranda v. Sandiganbayan, et al.*, G.R. No. 154098, July 27, 2005.

<sup>27</sup> *Miranda v. Sandiganbayan, et al.*, G.R. No. 154098, July 27, 2005.

<sup>28</sup> G.R. No. 146217, April 7, 2006.

<sup>29</sup> *Hadji Hashim Abdul v. Sandiganbayan*, G.R. No. 184496, December 2, 2013.

<sup>30</sup> *Hadji Hashim Abdul v. Sandiganbayan*, G.R. No. 184496, December 2, 2013.

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The High Court arrived at the same conclusion in *Bartolo v. Sandiganbayan*,<sup>31</sup> where it ruled that the Sandiganbayan did not gravely abuse its discretion in imposing the preventive suspension under Section 13 upon the accused, even though the crime charged was Falsification of public document under Article 171, RPC.

It can be argued that in the above cases, money was directly, indirectly, or even remotely involved or affected, which is arguably not the situation in this dispute. Such, however, is immaterial and will not work to remove the present charge against Breis from the coverage of Section 13. *Miranda v. Sandiganbayan*<sup>32</sup> clearly and unequivocally instructs us that "fraud upon the government" is not to be read as necessitating the perpetration of malversation. There, the Supreme Court held that while usurpation of authority defined and penalized under Article 177, RPC, cannot be found in Title 7, Book II, the crime is properly within the purview of "fraud upon government" under Section 13, RA 3019.

Following the above jurisprudential teachings, this Court finds that the charge of violation of Article 171, RPC against Breis for the falsification of Resolution No. 48-A entitled "*Resolution Earnestly Requesting Honorable DILG Secretary Mar A. Roxas of the Department of Interior and Local Government for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Camarines Sur*," an official document, can indeed be considered as an "offense involving fraud upon the government" under Section 13.

Withal, the Court finds no impediment to the imposition of preventive suspension against Breis pursuant to Section 13 of RA 3019. In fact, given the concurrence of the requisites for preventive suspension under said law, this Court is constrained to suspend Breis considering the settled rule that preventive suspension under Section 13, RA 3019 is mandatory and gives no discretionary authority upon the Court to determine the necessity thereof as long as the requisites for its imposition are present.<sup>33</sup>

**WHEREFORE**, premises considered, accused Irene Ranara Breis is hereby ordered preventively suspended from office as Vice-Mayor of the Municipality of Caramoan, Camarines Sur.

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<sup>31</sup> G.R. No. 172123, April 16, 2009.

<sup>32</sup> G.R. No. 154098, July 27, 2005

<sup>33</sup> See *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009.

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Accused Breis is directed to cease and desist from further performing and/or exercising the functions, duties and privilege of her position as Vice-Mayor of the Municipality of Caramoan, Camarines Sur or any other government position she may now or thereafter be holding, effective upon notice hereof and to continue for a period of ninety (90) days.

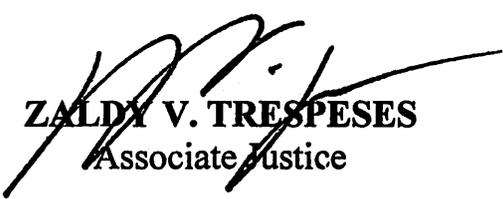
Let a copy of this resolution be furnished the Secretary of the Department of Interior and Local Government for the implementation of this order of suspension on said accused. The said office is directed to inform the Court within five (5) days from receipt of this resolution, of the action taken with regard to the suspension of accused, including the actual date when said accused commenced to serve her suspension and the date of its expiration after a period of ninety (90) days, so that her 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

  
**ZALDY V. TRESPESSES**  
Associate Justice