



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-2082

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

-versus-

PRESENT:

**ANNALIZA PROJIMO
GONZALES-KWAN, ET AL.,**
Accused,

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

Promulgated: **NOV 25 2019** *Am*

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RESOLUTION

MIRANDA, J.:

This resolves the suspension *pendente lite* of accused Arsenio V. Salamida (Salamida), Esperanza G. Cotin (Cotin), Ma. Nenita S. Ecleo (Ecleo), Felipe D. Padual (Padual) and Danilo G. Colandog (Colandog).

In its Show Cause Order dated October 3, 2019 and pursuant to Section 4, Rule VIII of the Revised Internal Rules of the Sandiganbayan,¹ the Court directed accused Salamida, Cotin, Ecleo, Padual and Colandog to show cause why they should not be suspended *pendente lite* in accordance with Section 13 of R.A. No. 3019 within a non-extendible period of ten (10) days from receipt.

[Handwritten signatures]

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.

In their Compliance dated October 24, 2019, accused Salamida, Cotin, Ecleo, Padual and Colandog allege that: 1) they could no longer use their positions, and the powers and prerogatives of their offices to influence potential witnesses or tamper records because the Prosecution had already rested its case and it is now the turn of the Defense to present its witnesses; 2) they have already been preventively suspended for six (6) months and one (1) day without pay from February 2016 to July 2016 by the Ombudsman Visayas during the preliminary investigation; and 3) a second suspension is not sanctioned by the rules.

RULING

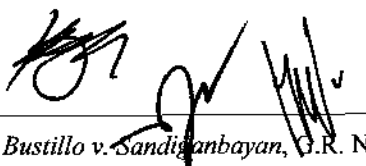
The Court does not find merit in the arguments of accused Salamida, Cotin, Ecleo, Padual and Colandog.

Section 13 of R.A. No. 3019 states:

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. (Emphasis supplied)

Suspension from 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; (3) any offense involving fraud upon government; or (4) any offense involving fraud upon public funds or property.²

In this case, the Court finds that all the requisites for the suspension *pendente lite* of accused Salamida, Cotin, Ecleo, Padual and Colandog exist.



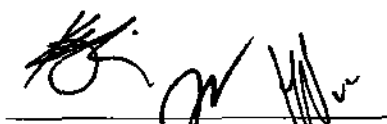
² *Bustillo v. Sandiganbayan*, G.R. No. 146217, April 7, 2006.

Accused Salamida, Cotin, Ecleo, Padual and Colandog were charged under a valid information for violation of Section 3 (e) of R.A. No. 3019. They entered a plea of “not guilty” to the charge against them. Having entered their respective pleas, accused Salamida, Cotin, Ecleo, Padual and Colandog admitted and acknowledged the validity of the informations.³ Accused Salamida, Cotin, Ecleo, Padual and Colandog also did not dispute the fact that they are the Municipal Engineer, Municipal Budget Officer, Municipal Planning Development Officer, Administrative Officer, and Market Supervisor, respectively, of the Municipality of Guiuan, Eastern Samar.

Once a court determines that the information charging a public officer with an offense under R.A. No. 3019 or Title 7, Book II of the Revised Penal Code, or any other offense involving fraud upon government or public funds or property is valid, the suspension *pendente lite* of the accused must follow as a matter of course.⁴ Preventive suspension under Section 13 of R.A. No. 3019 is mandatory, and there are no ‘ifs’ and ‘buts’ about it.⁵ 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.⁶ As far as the Court is concerned, there is no more question as to the validity of the information.

Moreover, the suspension of accused Salamida, Cotin, Ecleo, Padual and Colandog by the Ombudsman in an administrative case is distinct from a criminal case. Both cases do not affect each other and may proceed independently of each other. A criminal case will not preclude administrative proceedings, and vice-versa, insofar as the application of the law on preventive suspension is concerned.⁷

WHEREFORE, premises considered, accused Arsenio V. Salamida, Esperanza G. Cotin, Ma. Nenita S. Ecleo, Felipe D. Padual and Danilo G. Colandog are ordered **SUSPENDED** *pendente lite*, for a period of ninety (90) days, as Municipal Engineer, Municipal Budget Officer, Municipal Planning Development Officer, Administrative Officer, and Market Supervisor,



³ Order dated August 3, 2018, Records, vol. 1, pp. 353-354.

⁴ *Flores v. Hon. Layosa*, G.R. No. 154714, August 12, 2004.

⁵ *Villaseñor v. Sandiganbayan*, G.R. No. 180700, March 4, 2008; *Beroña v. Sandiganbayan and People*, G.R. No. 142456, July 27, 2004.

⁶ *Bolastig v. Sandiganbayan*, G.R. No. 110503, August 4, 1994.

⁷ *Villaseñor v. Sandiganbayan*, G.R. No. 180700, March 4, 2008.

respectively, of the Municipality of Guiuan, Eastern Samar, or any other public positions they may now or hereafter be holding.

Accused Salamida, Cotin, Ecleo, Padual and Colandog are ordered to **CEASE AND DESIST** from further performing and/or exercising the functions, duties, and privileges of their positions upon the implementation of this Order of Preventive Suspension. The suspension of accused Salamida, Cotin, Ecleo, Padual and Colandog shall be automatically lifted upon the expiration of the 90-day period from the implementation of this resolution.

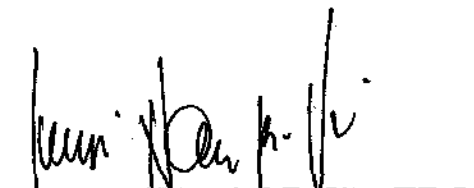
Let a copy of this Resolution be furnished the Secretary of the Department of the Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary of the DILG, or his duly authorized representative, is directed to inform the Court of the action taken thereon, the 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