



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

OF THE
Plaintiff,

SB-17-CRM-2169 to 2183
For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019

-versus-

**MARIANO Y. BLANCO III,
OSCAR M. PILAPIL, THELMA
R. LANDIZA, BRIGIDA M.
CABARON, FRAULINE F.
REQUILME, and EVELINA
TAN,**

Accused.

PRESENT:

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

Promulgated: **NOV 25 2019** / *[Signature]*

X-----X

RESOLUTION

MIRANDA, J.:

This resolves the Motion for Reconsideration dated October 16, 2019 filed by accused Oscar M. Pilapil (Pilapil).

In its Resolution¹ dated September 3, 2019, the Court ordered the suspension *pendente lite* of accused Pilapil as Municipal Engineer of Ronda, Cebu and any other public position he may now or hereafter hold for a period of ninety (90) days.

In his Motion, accused Pilapil sought the reduction of the period of his suspension for the following reasons: 1) he has no other source of income aside from the salary that he receives as Municipal Engineer of Ronda, Cebu; 2) he was already suspended by the Ombudsman for a period of one month and one day; 3) he is no longer the Chairman of the Bids and Awards Committee (BAC) Chairman, which was the position he occupied at the time relevant to this case and as charged in the Informations; and 4) the 90-day

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¹ Records, vol. 4, pp. 86-89.

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suspension imposed upon him by the Court would burden him financially as he would not be able to sustain and support himself and his family, as well as the expenses incurred for the litigation of these cases.

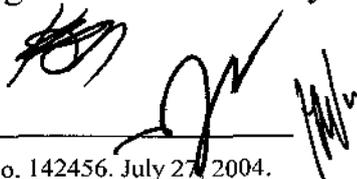
After a review of the records of these cases and the arguments raised by accused Pilapil, the Court **denies** the Motion for Reconsideration dated October 16, 2019.

To reiterate, the Supreme Court stressed in *Beroña v. Sandiganbayan*² that:

Section 13 of R.A. No. 3019 is so clear that there is hardly room for any extended court rationalization of the law. The law 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.

The Court has neither discretion nor duty to determine whether suspension *pendente lite* is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office.³ The Court must order the suspension of the accused pending litigation for as long as the following conditions are present: 1) accused is an incumbent public official; and 2) accused is charged under a valid Information for violation of R.A. No. 3019, as amended, or Title 7, Book II of the Revised Penal Code, or for any offense involving fraud upon government or public funds or property.⁴

In these cases, accused Pilapil admitted that he is an incumbent Municipal Engineer⁵ and the Court had already established the validity of the Informations.⁶ Both conditions are present. The Court had ruled that preventive suspension applies to any office that the public officer is currently holding and not necessarily to the particular office to which he is charged.⁷



² G.R. No. 142456. July 27, 2004.

³ *Bolastig v. Sandiganbayan*, G.R. No. 110503, August 4, 1994.

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

⁵ Paragraph 3(a) of the Motion for Reconsideration dated October 16, 2019; Manifestation and Compliance dated August 2, 2019, p.2.

⁶ Records, vol. 1, pp. 415-421.

⁷ Resolution dated September 3, 2019, Records, vol. 4, pp. 86-89.

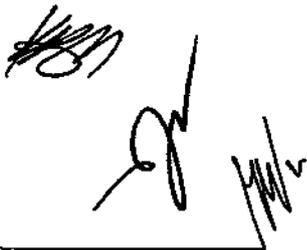
Accused Pilapil's suspension as Municipal Engineer of Ronda, Cebu while his criminal prosecution is pending in court must follow as a matter of course.⁸

The Court denies accused Pilapil's prayer for reduction of the period of his suspension to not more than 30 days, unless his criminal prosecution is terminated within said period. It is the ministerial duty of the Court to order his suspension *pendente lite*, subject only to the maximum period of 90 days. In *Villaseñor v. Sandiganbayan*⁹, the Supreme Court clarified that:

It must be borne in mind that the preventive suspension of petitioners will only last ninety (90) days, not the entire duration of the criminal case like petitioners seem to think. Indeed, it would be constitutionally proscribed if the suspension were to be of an indefinite duration or for an unreasonable length of time. 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, now Section 52 of the Administrative Code of 1987.

The Court notes accused Pilapil's concern that his only source of income is his salary as Municipal Engineer and the 90-day suspension would financially burden him. His suspension, however, should not be treated as a penalty but a measure to prevent him from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office. The protection of public interest must necessarily prevail over his private interest. In *Bayot v. Sandiganbayan*¹⁰, the Supreme Court made the same pronouncement:

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.



⁸ *Flores v. Hon. Layosa*, G.R. No. 154714, August 12, 2004.

⁹ G.R. No. 180700, March 4, 2008.

¹⁰ G.R. Nos. 61776-61861, March 23, 1984.

Even the law itself provides for the reinstatement of the public officer concerned and payment to him of the salaries and benefits for the duration of the suspension in the event of an acquittal:¹¹

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 the government or public funds or property, whether as a simple or as a complex offense and in whatever stage of the 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 and gratuity benefits under the 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]**

As to the argument that accused Pilapil was already suspended by the Ombudsman for one month and one day, the Court rules that such suspension is separate and distinct from the preventive suspension provided under Section 13 of R.A. No. 3019. In *Villaseñor v. Sandiganbayan*¹², the Supreme Court clarified that:

There are three kinds of remedies that are available against a public officer for impropriety in the performance of his powers and the discharge of his duties: (1) civil, (2) criminal, and (3) administrative. These remedies may be invoked separately, alternately, simultaneously or successively. Sometimes, the same offense may be the subject of all three kinds of remedies. The settled rule is that criminal and civil cases are altogether different from administrative matters, such that the first two will not inevitably govern or affect the third and vice versa.

Accordingly, the Court rules that the preventive suspension of accused Pilapil for 90 days is mandatory, unless a judgment for acquittal would be promulgated earlier in his favor.



¹¹ *Villaseñor v. Sandiganbayan*, G.R. No. 180700, March 4, 2008.

¹² G.R. No. 180700, March 4, 2008.

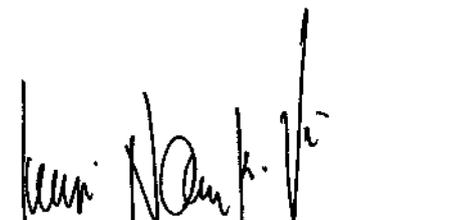
WHEREFORE, the Motion for Reconsideration dated October 16, 2019 filed by accused Oscar M. Pilapil is **DENIED** for lack of merit. The Resolution of the Court dated September 3, 2019 is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice