



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-14-CRM-0362**  
Plaintiff, For: Violation of Section 8(c)  
in relation to Section 11  
of R.A. 8041

**SB-14-CRM-0363**  
For: Grave Coercion

*Present*

- versus -

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

**TOMAS P. BONGALONTA, JR.,**  
**ET AL.,**

Accused.

*Promulgated:*

**JAN 14 2020** *[Signature]*

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

In the Resolution dated November 27, 2019, this Court directed the accused to show cause why they should not be preventively suspended under Sec. 13 of Republic Act No. 3019 (R.A. No. 3019).<sup>1</sup>

In their *Explanation*,<sup>2</sup> accused Tomas P. Bongalonta, Jr., Edilberto V. Bongon and Joel Berja aver that Sec. 13 of R.A. No. 3019 does not apply to them because they are not charged with violation of

<sup>1</sup> 2018 Revised Internal Rules of the Sandiganbayan. Rule VIII, 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>2</sup> Dated December 13, 2019 and filed on December 16, 2019

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said law or any of the provisions of the Revised Penal Code (RPC) on Bribery.

THE COURT'S RULING

Although this Court must emphasize that the offenses that fall under Sec. 13 of R.A. No. 3019 are not limited to violation of R.A. No. 3019 or any of the provisions of the RPC on Bribery, the Court nonetheless accepts the explanation of the accused.

Sec. 13 of R.A. No. 3019 reads:

**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.

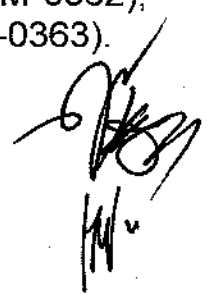
x x x

(underscoring supplied)

In *Bustillo v. Sandiganbayan*,<sup>3</sup> it was held that “[s]uspension from office is mandatory whenever a valid information charges an incumbent public officer with (1) violation of RA 3019; (2) violation of Title 7, Book II of the RPC; (3) any offense involving fraud upon government; or (4) any offense involving fraud upon public funds or property. x x x”

Here, the accused are charged with Violation of Sec. 8(c) in relation to Sec. 11 of Republic Act No. 8041 (R.A. No. 8041), otherwise known as the National Water Crisis Act of 1995 (SB-14-CRM-0362), and Grave Coercion under Art. 286 of the RPC (SB-14-CRM-0363).

<sup>3</sup> G.R. No. 146217, April 7, 2006



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There is no question that the accused are not charged with violation of any of the provisions of R.A. No. 3019 or Title 7, Book II of the RPC. The only matter left to be resolved is whether said offenses the accused are charged with involve fraud upon government or public funds or property. The Court rules in the negative.

In *Bustillo*,<sup>4</sup> the Supreme Court explained that the term "fraud" should be understood in its generic sense. *Viz.:*

As used in Section 13, the term "fraud" is understood in its generic sense, that is, referring to "an instance or an act of trickery or deceit especially when involving misrepresentation." x x x

Art. 286 of the RPC provides:

**Art. 286. Grave coercions.** – The penalty of *prisión correccional* and a fine not exceeding 6,000 pesos shall be imposed upon any person who, without authority of law, shall by means of violence, threats or intimidation, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong.

If the coercion be committed in violation of the exercise of the right of suffrage, or for the purpose of compelling another to perform any religious act or to prevent him from exercising such right or from so doing such act, the penalty next higher in degree shall be imposed.

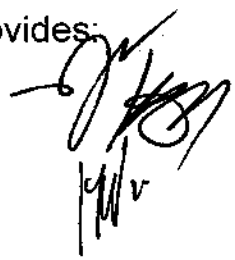
In *Navarra v. Office of the Ombudsman*,<sup>5</sup> it was held that the elements of Grave Coercion are as follows:

1. That a person is prevented by another from doing something not prohibited by law, or compelled to do something against his or her will, be it right or wrong;
2. That the prevention or compulsion is effected by violence, threats, or intimidation; and
3. That the person who restrains the will and liberty of another has no right to do so, or in other words, that the restraint is not made under authority of law or in the exercise of any lawful right.

On the other hand, Sec. 8(c) of R.A. No. 8041 provides:

<sup>4</sup> *Ibid.*

<sup>5</sup> G.R. No. 176291, December 4, 2009



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**Sec. 8. Anti-Pilferage.** – It is hereby declared unlawful for any person to:

x x x

c. Prevent, obstruct, and interfere with the survey, works, and construction of access road and water mains and distribution network and any related works of the utility entity;

From the foregoing, it is apparent that fraud, trickery or deceit is not an essential element of the offenses the accused are charged with in the present cases. Hence, the accused not being charged with any of the offenses covered by Sec. 13 of R.A. No. 3019, their suspension under said provision is not warranted.

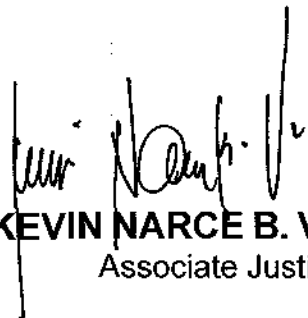
**WHEREFORE**, the *Explanation* of accused Bongalonta, Bongon and Berja is merely NOTED.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice