



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0697

For: Violation of Sec. 3(e) of
R.A. 3019

- versus -

Present:

CHARLITA ANDALES ESCANO,
Accused.

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

Promulgated:

JAN 07 2020

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RESOLUTION

VIVERO, J.:

For resolution is the *Suspension Pendente Lite* of accused Charlita Andales Escano (accused). Pursuant to Section 4, Rule VIII of the 2018 Revised Internal Rules of the Sandiganbayan, this Court, in its *Minute Resolution*¹ dated 31 July 2019, directed the aforementioned accused to show cause within a non-extendible period of ten (10) days from receipt of such Order why she should not be suspended *pendente lite* in accordance with Section 13 of Republic Act No. 3019.

In her *Compliance* dated September 12, 2019, accused argued that she should not be preventively suspended as the suspension does not serve any purpose, as follows:

1. The preventive suspension of accused from the public office she currently holds is a preventive measure intended for the

¹ Record, Vol. 1, p. 354.

RESOLUTION

People vs. Charlita Andales Escano
Criminal Case No. SB-18-CRM-0697

Page 2 of 4

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- purpose of precluding her from taking advantage of or abusing the prerogatives of her office;
2. All the documentary evidence needed by the prosecution are already in its possession as it has already marked its evidence during the Pre-Trial;
 3. The prosecution is set to terminate the presentation of its evidence on September of 2019 thus there are no other prosecution witnesses that could be harassed or intimidated by herein accused so as to discourage or prevent them from testifying; and
 4. The last witness to be presented by accused could not be harassed by accused as he/she holds a much higher position than her which renders any threat from accused highly impossible.

RULING

The Court finds no merit to the arguments raised by the accused in her *Compliance*.

It is well-settled that preventive suspension under Section 13 of R.A. No. 3019 is mandatory.² It is evident from the very wording of the law, to wit:

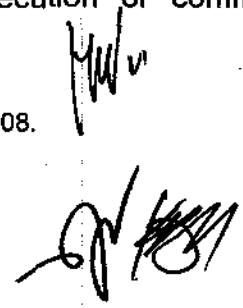
“Section 13. Suspension and loss of benefits. — Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title Seven Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as complex offense and in whatever stage of execution and mode of participation, is pending in court shall be suspended from office. x x x”
(Emphasis supplied)

The case of *Dela Cruz vs. Sandiganbayan*³ likewise stressed the mandatory nature of preventive suspension, as follows:

“The court possesses no discretion to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he may frustrate his prosecution or commit further acts of malfeasance or do both.”

² *Villaseñor vs. Sandiganbayan*, G.R. No. 180700, 04 March 2008.

³ G.R. No. 161929, 08 December 2009.



RESOLUTION

People vs. Charlita Andales Escano
Criminal Case No. SB-18-CRM-0697

Page 3 of 4

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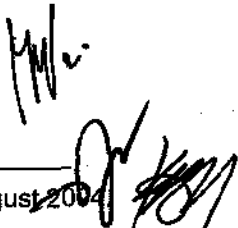
The Supreme Court in *Flores vs. Layosa*⁴ ruled that once the court determines that the Information charging a public officer with an offense under R.A. No. 3019 or Title 7, Book II of the Revised Penal Code, or any other offense involving fraud upon government or public funds or property is valid, it is bound to issue an order of preventive suspension of the accused public officer as a matter of course.

In fine, to warrant the imposition of preventive suspension, only the following conditions must be present: (1) the accused is an incumbent public official; and (2) the accused is charged under a valid information which involves a violation of R.A. No. 3019, felonies under Title Seven, Book Two of the Revised Penal Code, or for any offense involving fraud upon the government.

Record shows that the accused was charged under the *Information* dated 11 July 2018 for violation of Section 3(e) of R.A. No. 3019, which the Court finds to be sufficient in form and substance. Besides, its validity was never disputed by the accused. Record also shows that accused is an incumbent government official, a fact undisputed by accused in her Compliance. Verily, the conditions for preventive suspension have been satisfied and the Court is duty-bound to issue the order of suspension against accused as a matter of course.

As to the duration of suspension, it is settled that preventive suspension may not be of indefinite duration or for an unreasonable length of time; it would be constitutionally proscribed otherwise as it raises, at the very least, questions of denial of due process and equal protection of the laws. 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 (the Civil Service Decree) now Section 52 of the Administrative Code of 1987.⁵

WHEREFORE, premises considered, accused CHARLITA ANDALES ESCANO is hereby **SUSPENDED PENDENTE LITE**, as Director IV, Office of Finance and Administrative Services, Mindanao Development Authority and from any other public positions she may now or hereafter hold, for a period of **NINETY (90) DAYS** from receipt of this Resolution.



⁴ G.R. No. 154714, 12 August 2004

⁵ *Layus vs. Sandiganbayan*, G.R. No. 134272, 08 December 1999 which cited *Segovia vs. Sandiganbayan*, G.R. No. 124067, 27 March 1998.

RESOLUTION

People vs. Charlita Andales Escano
Criminal Case No. SB-18-CRM-0697

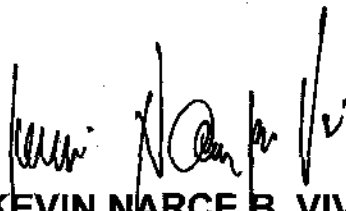
Page 4 of 4

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Accused shall immediately cease and desist from performing the functions of her office upon the implementation of the preventive suspension. The suspension shall automatically be 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 Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary of DILG is DIRECTED to inform the Court of the action taken within fifteen (15) days from receipt hereof.

SO ORDERED.



KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL B. MIRANDA
Associate Justice