



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

**PEOPLE
OF THE
PHILIPPINES,**

Plaintiff,

**Criminal Case No. SB-20-
CRM-0077**

For: *Violation of Section 3 (e) of
Republic Act No. 3019, as
amended.*

- versus -

Present:

GODY H. CARDENAS

Accused.

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B. J. and
MORENO, J.

Promulgated:

FEBRUARY 27, 2023

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RESOLUTION

CABOTAJE-TANG, P.J.:

This resolves the suspension *pendente lite* of accused Gody H. Cardenas as municipal mayor of the Municipality of Bucloc, Abra pursuant to Section 13 of Republic Act (R.A.) No. 3019, as amended, and Section 4, Rule VIII of the 2018 Revised Internal Rules of the Sandiganbayan.

The record of this case shows that in his "*Urgent Manifestation and Motion*" dated September 8, 2022,¹ accused Cardenas attached a *Certification* dated September 8, 2022, issued by Bramie M. Mina, Municipal Local Government Operations Officer, and Crisanta B. Lizardo, Human Resource Development Officer of the Department of Interior and Local

¹ p. 277-278, Vol. I, Record

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Government-Cordillera Administrative Region (DILG-CAR) which states, among other things, that he is the incumbent municipal mayor of Bucloc, Abra.²

Section 13 of R.A. No. 3019, as amended, reads:

*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 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.*³ 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.

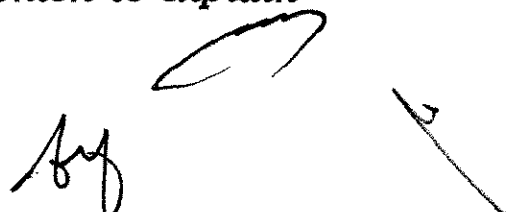
In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to reconstitute the same to the government. (As amended by BP Blg. 195, March 16, 1982)

On the other hand, Section 4, Rule VIII of the 2018 Revised Internal Rules of the Sandiganbayan provides:

*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***

² *Id.*, at p. 281

³ Emphasis supplied.



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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. 3019,⁴ as well as applicable decisions of the Supreme Court.

Based on the aforesaid provisions, the Court, in its *Resolution* promulgated on October 26, 2022, gave accused Cardenas a non-extendible period of ten (10) days from notice within which to explain why he should not be preventively suspended from holding public office.⁵

A review of the record of this case reveals that accused Cardenas and his counsel, Atty. Ma. Saniata Liwliw V. Gonzales-Alzate, received copies of the said *Resolution* on November 15, 2022,⁶ and November 17, 2022,⁷ respectively. However, the same accused failed to file the said required comment despite the period given him. Thus, in its Order dated February 10, 2023, the Court declared accused Cardenas to have waived his right to submit an explanation on why he should not be placed under preventive suspension. Accordingly, the said matter was submitted for resolution of the Court on even date.⁸

THE RULING OF THE COURT

To begin with, jurisprudence teaches that while the suspension of a public officer under Section 13 of R.A. No. 3019, as amended, is mandatory, the suspension requires a prior hearing to determine the “*validity of the information*” filed against him/her “*taking into account the serious and far-*

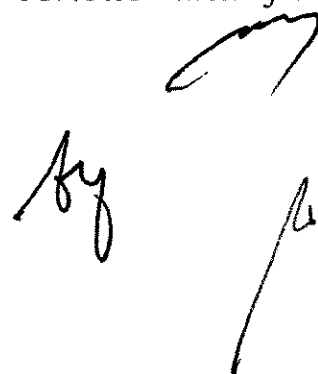
⁴ Emphasis supplied.

⁵ *Id.*, at p. 318

⁶ *Id.*, at p. 319-A

⁷ *Id.* at p. 319-B

⁸ *Id.*, at p. 339

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reaching consequences of a suspension of an elective public official before his/her conviction.”⁹

In the case of **Luciano v. Mariano**,¹⁰ the Supreme Court held that there are no specific rules for such pre-suspension hearing but the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him; *i.e., that he/she has not been afforded the right of due preliminary investigation; that the acts for which he/she stands do not constitute a violation of the provisions of Republic Act No. 3019 or of the bribery provisions of the Revised Penal Code which would warrant his mandatory suspension from office under Section 13 of the Act; or he/she may present a motion to quash the information on any of the grounds provided in Rule 117 of the Rules of Court.*

Moreover, in **Miguel v. Sandiganbayan**,¹¹ the High Tribunal clarified that a pre-suspension hearing is basically a due process requirement. Thus, when an accused public official is given an adequate opportunity to be heard on his/her possible defenses against the mandatory suspension under R.A. No. 3019, as amended, then an accused would have no reason to complain that no actual hearing was conducted.

Here, accused Cardenas was accorded the opportunity to be heard. He was given time to explain why he should not be preventively suspended in the Court’s *Resolution* promulgated on October 26, 2022. However, the said accused failed to submit any explanation and/or comment.

Thus, based on the attending circumstances, the Court holds that the requisites for the preventive suspension of a public officer under the aforesaid provisions have been met. Accordingly, the suspension *pendente lite* of accused Cardenas as municipal mayor of the Municipality of Bucloc, Abra is in order.

⁹ **Miguel v. Sandiganbayan**, 375 SCRA 560 (2012)

¹⁰ 40 SCRA 187 (1971); See also **Bedruz v. Sandiganbayan**, 477 SCRA 286 (2005), **Miguel v. Sandiganbayan**, 375 SCRA 560 (2012)

¹¹ 675 SCRA 560 (2012)

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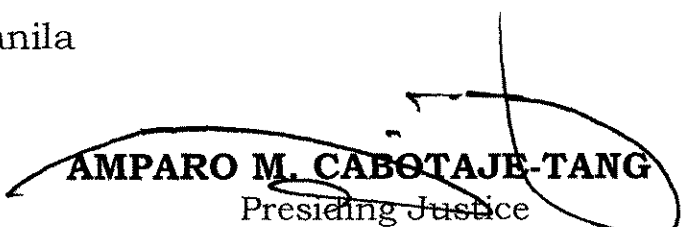
WHEREFORE, the Court hereby **ORDERS** the suspension *pendente lite* of accused GODY HERMOSO CARDENAS as Mayor of the Municipality of Bucloc, Abra and from any other public position he may now or hereafter hold for a period of ninety (90) days.

Let a copy of this *Resolution* be furnished the Secretary of the Department of Interior and Local Government (DILG) for the implementation of this order of suspension. The DILG Secretary is **REQUESTED** to inform the Court of the action taken thereon within five (5) days from receipt hereof.

The suspension of the accused shall take effect immediately upon the receipt of this *Resolution* and shall be automatically lifted upon the expiration of the ninety-day period from the said effectivity.

SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice