



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

SEVENTH DIVISION

Minutes of the Proceedings held on August 31, 2023.

Present:

Ma. Theresa Dolores C. Gomez-Estoesta..... Chairperson
Zaldy V. Trespeses..... Associate Justice
Georgina D. Hidalgo..... Associate Justice

The following resolution was adopted:

SB-23-CRM-0060 – People v. Rhodora J. Cadio

This resolves Accused Rhodora J. Cadio's "EXPLANATION" dated August 20, 2023.¹

GOMEZ-ESTOESTA, J.,

During the pre-suspension hearing conducted on August 10, 2023,² accused Rhodora J. Cadio, the incumbent Provincial Governor of Antique, was given a period of ten (10) calendar days to show cause why she should not be preventively suspended, *viz:*

Pursuant to Rule 8, Section 4 of the 2018 Revised Internal Rules of the Sandiganbayan, where the court can *motu proprio* convert the proceedings into a pre-suspension hearing, said accused is likewise given a non-extendible period of 10 calendar days from today to show cause why she should not be preventively suspended. Thereafter, the same is submitted for resolution.

Accused Cadio's "*Explanation*" was thus filed on August 20, 2023, praying that preventive suspension should not be imposed against her.

The *Explanation* is grounded on the following:

First, there is no more need for suspension *pendente lite* to be imposed, given that the private complainant is already desisting from further pursuing the case. The private complainant has informed Gov. Cadio that he would be executing an affidavit of desistance. The said affidavit of desistance will thus constrain the court to dismiss the charge, providing no need or basis to suspend the Governor.

¹ Electronically filed on August 22, 2023 at 5:00 PM, Record, vol. 2, pp. 21-39.

² Order dated August 10, 2023; Records, p. 524.

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Second, the case of *Segovia v. Sandiganbayan*³ bolsters accused Cadio's arguments that (i) the Information is not valid considering that the acts imputed to the accused do not constitute a specific crime under R.A. 3019 or the provisions of Title 7, Book II of the Revised Penal Code; and (ii) the Information is subject to quashal considering that the alleged liability has been extinguished.

For preliminaries, it is undisputed that it is mandatory on the part of this court to preventively suspend any incumbent public officer under certain circumstances provided by law.

Section 13 of *Republic Act No. 3019* provides:⁴

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.

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Section 4, Rule VIII of the *2018 Revised Internal Rules of the Sandiganbayan* states:

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.

In *Segovia v. Sandiganbayan*, the Supreme Court illustrated the nature of a preventive suspension, to quote:

It is mandatory for the court to place under preventive suspension a public officer accused before it. Imposition of suspension, however, is not automatic or self-operative. A precondition therefor is the existence of a valid information, determined at a pre-suspension hearing. Such a hearing is in accord with the spirit of the law, considering the serious and far-reaching consequences of a suspension of a public official even before his conviction, and the demands of public interest for speedy determination of the issues involved in the case. The purpose of the pre-suspension hearing is basically to determine the validity of the information and thereby furnish the court with a basis to either suspend the accused and proceed with the

³ G.R. No. 124067, March 27, 1998.

⁴ As amended by Batas Pambansa Blg. 195 (1982).

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trial on the merits of the case or refuse suspension of the latter and dismiss the case or correct any part of the proceeding which impairs its validity. The accused should be given adequate opportunity to challenge the validity or regularity of the criminal proceedings against him; e.g. that he has not been afforded the right to due preliminary investigation; that he has not been afforded the right to due preliminary investigation; that the acts imputed to him do not constitute a specific crime (under R.A. 3019 or the Revised Penal Code) warranting his mandatory suspension from office under Section 13 of the Act; or that the information is subject to quashal on any of the grounds set out in Rule 117 of the Rules of Court. **But once a proper determination of the validity of the Information has been made, it becomes the ministerial duty of the court to forthwith issue the order of preventive suspension of the accused official on the pretext that the order denying the latter's motion to quash is pending review before the appellate courts.**

As thus reiterated in *Segovia v. Sandiganbayan*, it is mandatory for the court to suspend any public official against whom a valid information is filed charging a violation of the provisions of R.A. 3019 or of the provisions of Title 7, Book II of the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property. Once the information is found to be sufficient in form and substance, then the court must issue the order of suspension as a matter of course.⁵

At this instance, the validity of the Information, while challenged at the outset by accused Cadio, should now be a non-issue, having been settled in the court's Resolution dated July 19, 2023.⁶ Accused's arraignment followed on August 10, 2023.⁷

However, *Segovia v. Sandiganbayan* gives the court a window when to exercise discretion in the imposition of the preventive suspension in the following instances:

Its discretion lies only during the pre-suspension hearing where it is required to ascertain whether or not (1) the accused had been afforded due preliminary investigation prior to the filing of the information against him, (2) **the acts for which he was charged constitute a violation of the provisions of Republic Act. No. 3019 or of the provisions of title 7, Book II of the Revised Penal Code**, or (3) the information against him can be quashed, under any of the grounds provided in Section 2, Rules 117 of the Rules of Court. [emphasis supplied]

Notably, the *Information* involves a private complainant, Antonio A. Dela Vega, who claims to have been unjustly refused of his payment of salaries, RATA, and other benefits for the period July 2016 to February 2018 in the total amount of P1,664,810.00.

Two matters readily become apparent in accused's *Explanation*, viz:

⁵ Ibid.

⁶ Records, Volume 1, pp. 353-371.

⁷ Records, Volume 1, pp. 519-525.

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- i. That the accused Cadio was informed by private complainant Antonio A. Dela Vega that he would be executing an affidavit of desistance; and
- ii. disbursement vouchers were issued showing payment to the private complainant.

How these allegations may affect the nature of the charge that will necessarily call for the preventive suspension of the accused should first be determined. Meantime, the prosecution should comment on the matter.

In consideration thereof, the court deems it appropriate that a continuation of the pre-suspension hearing is deemed necessary.

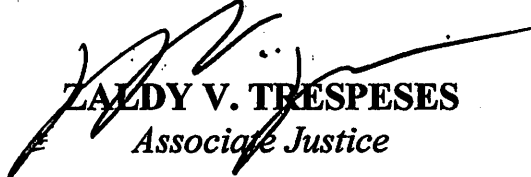
IN VIEW THEREOF, let the continuation of the pre-suspension hearing be set on **September 19, 2023 at 8:30 in the morning** before the Fourth / Seventh Division Courtroom.

The prosecution is ordered to **COMMENT** on the *Explanation* given by the accused within ten (10) days upon receipt thereof.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ ESTOESTA
Chairperson, Associate Justice

WE CONCUR:


ZALDY V. TRESPESSES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

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CLERK OF COURT
MAY 19 2023