



Republic of the Philippines

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0123

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

- versus -

Present

FERNANDEZ, SJ, J.

Chairperson

MIRANDA, J. and

VIVERO, J.

VALDEMAR MENDIOLA CHIONG,
Accused.

Promulgated:

JUL 25 2019

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RESOLUTION

VIVERO, J.:

This resolves accused Valdemar M. Chiong's "COMPLIANCE TO THE SHOW CAUSE ORDER OF THE HONORABLE COURT" dated July 4, 2019, regarding the propriety of preventively suspending him from public office during the pendency of the instant case.

Accused is charged with violation of Section 3 (e) of Republic Act No. 3019, as amended, under an Information¹ which reads as follows:

¹ Information dated November 28, 2017, pp. 1-2 (Records, Vol. 1, pp. 1-2).

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"That on or about 7 April 2014, or sometime prior or subsequent thereto, in the City of Naga, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, accused VALDEMAR MENDIOLA CHIONG, a high-ranking public officer, being then the City Mayor of Naga, in such capacity, while in the performance of his administrative and/or official functions and committing the crime in relation to office, taking advantage of his official position, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give Petronas Energy Philippines, Inc. (Petronas) unwarranted benefit, advantage or preference by issuing or causing the issuance of Mayor's Permit No. RO1-484-2014 dated 7 April 2014, in favor of Petronas despite its lack of the pre-requisite Fire Safety Inspection Certification from the Bureau of Fire Protection, to the detriment and prejudice of public interest.

CONTRARY TO LAW."

After the arraignment² of the accused on April 26, 2018, the Court issued a show cause order³ dated May 22, 2019. The Court gave accused Chiong a non-extendible period of ten (10) days from notice of the said order within which to explain why he should not be preventively suspended from office pursuant to Section 13 of Republic Act No. 3019 and Section 4, Rule VIII of the 2018 Revised Internal Rules of the Sandiganbayan.

On July 4, 2019,⁴ accused Chiong filed his Compliance,⁵ alleging that suspension would no longer be necessary because there is no more possibility on his part to intimidate possible witnesses against him or hamper his prosecution. The accused elaborates that all the documentary evidence which the accused intends to present in support of his defense were already attached to

² Certificate of Arraignment dated April 26, 2018, pp. 96 (Records, Vol. 1, pp. 96) and Order dated April 26, 2018, pp. 96-A (Records, Vol. 1, pp. 96-A).

³ Order dated May 22, 2019.

⁴ The Order was received by accused's counsel on June 24, 2019.

⁵ Entitled COMPLIANCE TO THE SHOW CAUSE ORDER OF THE HONORABLE COURT dated July 4, 2019.

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his Judicial Affidavit filed before us on May 23, 2019. In support of his contention, the accused cites the case of *Villasenor et al. v. Sandiganbayan*⁶, where the Supreme Court stated, *inter alia*:

“The purpose of the suspension order is to prevent the accused from using his position and the powers and prerogatives of his office to influence potential witnesses or tamper with records which may be vital in the prosecution of the case against him.”

Accused Chiong also points out that he is the elected Mayor of the City of Naga, Cebu. He contends that it is the mandate of the people of the City of Naga for him to fully discharge his functions as their City Mayor. Thus, he asserts that to suspend him *pendente lite* will definitely prevent him from discharging his duties and responsibilities during that period and nullify the will of the people who elected him.

Accused Chiong's contention is unmeritorious.

The suspension *pendente lite* of the said accused is mandated under Section 13 of Republic Act No. 3019, as amended, which provides, thus:

Section 13. *Suspension and loss of benefits.* Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery 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.

Thus, to suspend the accused *pendente lite*, two (2) requisites must be present: (1) the Information must be valid; and (2) the offense charged is a covered offense i.e., (a) it is a violation of R.A. 3019 or (b) an offense under Title VII, Book II of the Revised Penal

⁶ *Villasenor et al. v. Sandiganbayan*, G.R. No. 180700, March 4, 2008.

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Code or (c) any offense involving fraud upon government or public funds or property.

In this case, the records show that accused Chiong is charged under a valid Information⁷ for violating Section 3(e) of R.A. No. 3019. The accused Chiong pleaded not guilty to the charge whilst assisted by his counsel.⁸ It cannot be disputed that the subject Information is valid when in fact, the accused has been arraigned and entered a plea of not guilty thereby admitting and acknowledging the validity of the Information.⁹ Likewise, the offense charged – a violation of Section 3 (e) of R.A. 3019 – is a covered offense as expressly stated in Section 13 of R.A. 3019.

With the presence of the two (2) requisites, the suspension *pendente lite* of the accused must follow as a matter of course. No less than the authority cited by the accused himself enunciates the mandatory nature of the above-quoted provision *vis-à-vis* the duty of this Court to order such suspension. The case of *Villasenor et al. v. Sandiganbayan*¹⁰ states that this Court is mandated to put the accused under suspension, viz.:

“xxx It is well-settled that preventive suspension under Section 13 of R.A. No. 3019 is mandatory. xxx Section 13 of R.A. No. 3019, as amended, unequivocally provides that the accused public officials ‘shall be suspended from office’ while the criminal prosecution is pending in court. xxx”

The case of *Segovia v. Sandiganbayan*¹¹ is instructive with respect to the argument of the accused that suspension would no longer be necessary because there is no more possibility on his part to hamper his prosecution. In *Segovia*, the petitioners argued that “their preventive suspension at this point would actually be purposeless, as there is no more need for precautionary measures

⁷ Information dated November 28, 2017, pp. 1 – 2 (Records, Vol. 1, pp. 1 – 2).

⁸ Certificate of Arraignment dated April 26, 2018, pp. 96 (Records, Vol. 1, pp. 96) and Order dated April 26, 2018, pp. 96-A (Records, Vol. 1, pp. 96-A).

⁹ *Miranda v. Sandiganbayan*, G.R. No. 154098, July 27, 2005.

¹⁰ *Ibid* at 4.

¹¹ *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998.

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against their abuse of the prerogatives of their office." The Supreme Court declared:

"xxx The arguments are not new. They have been advanced and rejected in earlier cases. They will again be so rejected in this case. xxx The firmly entrenched doctrine is that under Section 13 of the Anti-Graft and Corrupt Practices Law, the suspension of a public officer is mandatory after a determination has been made of the validity of the information in a pre-suspension hearing conducted for that purpose. xxx"

To deliver the *coup de grâce*, it is pertinent to note the statements made by the Supreme Court in the case of **Socrates v. Sandiganbayan**¹²:

"xxx Upon a proper determination of the validity of the information, it becomes mandatory for the court to immediately issue the suspension order. The rule on the matter is specific and categorical. It leaves no room for interpretation. It is not within the court's discretion to hold in abeyance the suspension of the accused officer on the pretext that the order denying the motion to quash is pending review before the appellate courts. 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 informations against him can be quashed, under any of the grounds provided in Section 2, Rule 117 of the Rules of Court.

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. There are no ifs and buts about it. (Emphasis supplied) xxx"

The second argument of the accused Chiong, that he now holds office as the Mayor of the City of Naga, also holds no weight. It

¹² *Socrates v. Sandiganbayan*, G.R. Nos. 116259-60, February 29, 1996.

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is of no consequence that accused Chiong is presently holding office. It is doctrinal that suspension *pendente lite* applies to any office that the public officer is currently holding. The case of **Beroña v. Sandiganbayan**¹³ is guiding:

“xxx The provision of suspension *pendente lite* applies to all persons indicted upon a valid Information under the Act, whether they be appointive or elective officials; or permanent or temporary employees, or pertaining to the career or non-career service. It applies to a Public High School Principal; a Municipal Mayor; a Governor; a Congressman; a Department of Science and Technology (DOST) non-career Project Manager; a Commissioner of the Presidential Commission on Good Government (PCGG). The term "office" in Section 13 of the law applies to any office which the officer might currently be holding and not necessarily the particular office in relation to which he is charged. (Emphasis supplied) xxx”

WHEREFORE, premises considered, the Court hereby orders the **SUSPENSION** *pendente lite* of accused **VALDEMAR M. CHIONG**, as the Mayor of the City of Naga, Cebu, and is hereby directed to **CEASE and DESIST** from performing and/or exercising the functions and duties, as well as receiving and/or enjoying the salaries, benefits, and privileges of his current public position or any other public office or position he may now or hereafter be holding, effective upon notice hereof and continuing 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 for the implementation of the order of suspension on said accused. Said office is further requested to inform this Court of the date the accused started serving his suspension *pendente lite* and the date of its termination.

The suspension of the accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.

¹³ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004.

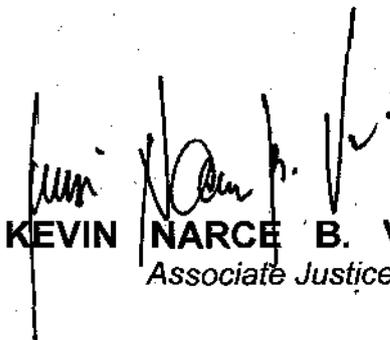
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KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL E. MIRANDA
Associate Justice