



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0337

For: Violation of Section 3(e)
 of R.A. 3019 as amended

- versus -

SB-18-CRM-0338 and 0339

For: Malversation (Art. 217 of the
 Revised Penal Code)

EDGAR G. RAMA, ET AL.,

Accused.

Present :

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

Promulgated:

AUG 01 2019

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RESOLUTION

FERNANDEZ, J.

This resolves the *Motion for Reconsideration (Of the Resolution dated July 4, 2019)*¹ filed by accused Nancy A. Catamco, asking the Court to reconsider its *Resolution* dated July 4, 2019.

In her *Motion*, accused Catamco argues:

1. The Court erred in holding that the requirement under R.A. No. 3019, that the information must be valid, has been met.
 - a. In view of the pendency of her Petition for Certiorari before the Supreme Court questioning the denial of her Motion to Dismiss and/or Quash Information, the

¹ Dated July 12, 2019, received by the Court on July 13, 2019; Record, vol. 6, pp. 404-416.

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validity of the Informations in these cases is not yet settled.

i. The Court erred in relying on the ruling of the Supreme Court in the case of *Socrates vs. Sandiganbayan, et al.* The case cited is not applicable in this case because in *Socrates vs. Sandiganbayan, et al.*, the main motion was an *Urgent Motion for Quashal of Information and/or Reinvestigation in the Light of Supervening Facts* while in this case, her motion was primarily a motion to dismiss on the ground of violation of her constitutional right to speedy disposition of cases, with the quashal of the Informations as a mere subsidiary remedy. Her motion goes beyond the validity of the Informations as it challenges the very proceedings that led to the filing of the Informations.

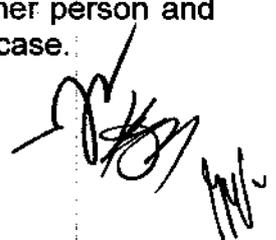
ii. Unlike in *Socrates vs. Sandiganbayan, et al.*, her *Petition for Certiorari* poses a more serious question on the validity of the Informations as it is grounded upon a violation of her Constitutional right to speedy disposition of cases.

b. Accused Catamco did not impliedly accede to the validity of the Informations when she pleaded "not guilty".

i. The Court's conclusion that, in pleading not guilty, she impliedly acceded to the validity of the Informations, is contrary to the principle laid down in the case of *People vs. Hon. Zeida Aurora B. Garfin*, citing *Villa vs. Ibanez*, that questions of want of jurisdiction may be raised at any stage of the proceedings and is not waived by defendant's plea to the Information.

ii. Her act of entering a plea of not guilty does not cure the infirmity of the proceedings prior to the filing of the Informations.

iii. A violation of her right to speedy disposition of cases not only warrants the dismissal of cases against her, but also strips the Ombudsman of any authority to file the Informations. Since the Ombudsman lacked authority to file the Informations, the Court acquired no jurisdiction over her person and over the subject matter of the case.



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2. The Court erred in holding that preventive suspension under Section 13 of R.A. No. 3019 applies to her, who is a public officer charged in these cases in her private capacity.
 - a. The Court erred in applying the cases of *Segovia* and *Berona* because said cases are not authoritative on the applicability of preventive suspension under Section 13 of R.A. No. 3019 to public officers charged for acts committed prior to holding their present office and in their private capacity. The Supreme Court in those two cases only ruled that Sec. 13 of R.A. No. 3019 applies to public officers who committed acts while in office even if they subsequently hold different government positions.
 - b. Preventive suspension is mandatory only for public officers who committed the offense charged while in office, but not for those charged in their personal or individual capacity. This is obvious when the law uses the term "incumbent" and expressly provides the exception "unless in the meantime administrative proceedings have been filed against him".
 - c. Since she was charged in her personal capacity, she can never be subject of any counterpart administrative proceeding. It follows therefore that she is not among those covered by Section 13 of R.A. No. 3019.
3. The Court failed to consider the uniqueness of her case. There exists a doubt as to whether the law applies to her and such doubt should have prompted the court to resolve the matter in her favor.
 - a. The prosecution never moved for her preventive suspension. This shows that the prosecution is aware that placing her under preventive suspension is improper.
 - b. Placing her under preventive suspension is unfair and beyond what the law contemplates. She was charged in her private capacity but is now being placed under preventive suspension pursuant to R.A. No. 3019 as if she is being charged as a public officer with counterpart administrative cases. Section 13 was never meant to subject private individuals charged in such capacity to preventive suspension.
 - c. Had her cases been resolved by the Ombudsman as early as 2004 when the Commission on Audit



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disallowed the subject transaction, the issue of her preventive suspension would not have existed since she only joined the government service in 2010. Thus, she not only needs to defend cases filed in gross violation of her right to speedy disposition of cases but also have to suffer serious prejudice by reason of such gross violation.

d. Given the uniqueness of the circumstances surrounding the filing of cases against her, and the gross inequity resulting therefrom, serious doubt exists on whether Section 13, R.A. No. 3019 is applicable to her, especially since the law does not expressly refer to persons charged in their personal capacity but to incumbent public officers susceptible to being subject of counterpart administrative charges. Such doubt must be resolved in her favor under the *in dubio reo* principle.

4. The Court erred in not considering that the move to suspend accused Catamco was politically motivated.

a. The matter of placing her under preventive suspension arose just before the campaign period started despite the fact she was arraigned last year.

In their *Comment/Opposition* (to the Motion for Reconsideration [RE: Resolution dated 4 July 2019]),² the prosecution argues that accused Catamco failed to show that the Court, in ordering her suspension *pendente lite*, committed errors of law and facts that warrant the reversal of the assailed *Resolution*. The prosecution argues:

1. Accused Catamco's submission that the ruling in *Socrates* finds no application in the present case, as the facts therein and in the present case vary, is without merit. Like in the *Socrates* case, herein accused seeks the Court to await the outcome of her Petition for Certiorari before determining the propriety of subjecting her to a preventive suspension.
2. The Court correctly applied the ruling in *Berona* and *Segovia*.
3. It is illogical to apply Section 13 of R.A. No. 3019 only to public officers who committed the acts charged while in office. The purpose of Section 13 of R.A. No. 3019 is to prevent the accused from using her office to intimidate

² Dated July 18, 2019, filed on July 19, 2019.

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witnesses or frustrate her prosecution or continue committing malfeasance in office.

4. The term office applies to any office, which the accused might be currently holding, and not necessarily the particular office in relation to which he is charged.
5. The provision on preventive suspension does not consider the capacity to which the accused is being charged but her incumbent or current position.
6. Accused Catamco's contention that the move to suspend her was politically motivated deserves scant consideration. Her suspension *pendente lite* was pursuant to Rule VIII, Sec. 4 of the 2018 Revised Internal Rules of the Sandiganbayan.
7. As held in *Flores vs. Layosa*, the duty of the Court to order the suspension of the accused is mandatory in character. The issuance of which does not depend upon the filing of the prosecution of a motion for preventive suspension. Section 13 of R.A. No. 3019 expressly allows the court to *motu proprio* issue suspension *pendente lite*.

After a careful reconsideration of the arguments raised by the accused, the Court finds no reason to reverse its *Resolution* dated July 4, 2019, ordering the suspension *pendente lite* of accused Nancy A. Catamco in accordance with R.A. No. 3019 and Rule VIII, Sec. 4 of the 2018 Revised Internal Rules of the Sandiganbayan.³

The arguments raised by the accused are essentially a rehash of her previous arguments and have already been considered by the Court when it issued the assailed *Resolution* dated July 4, 2019. Hence, there is no need for the Court to discuss anew.⁴

Sec. 13 of R.A. No. 3019 is clear and unequivocal when it states that any incumbent public officer against whom any criminal prosecution under a valid information under Sec. 13 of R.A. No. 3019 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 complex offense and in whatever stage of execution and mode of

³ *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.

⁴ *Mendoza-Ong vs. Sandiganbayan*, G.R. Nos. 146368-69, October 18, 2004.

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participation, is pending in court shall be suspended from office.⁵ It did not require nor mention that the incumbent public officer must have been in the government service at the time of the commission of the offense or at the time of filing of the Information.

The phrase "*unless in the meantime administrative proceedings have been filed against him*" was clearly intended to qualify the phrase "*but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension*", and was not meant to limit the application of suspension *pendente lite* only to those who may be subjected to administrative proceedings.

In fine, the Court finds no reason to reverse its *Resolution* dated July 4, 2019.

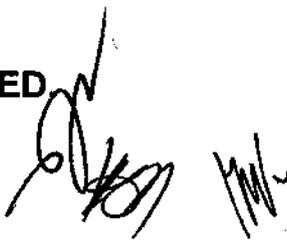
WHEREFORE, premises considered, the *Motion for Reconsideration (Of the Resolution dated July 4, 2019)* filed by accused Nancy A. Catamco, is hereby **DENIED** for lack of merit.

The Court orders the suspension *pendente lite* of accused **NANCY A. CATAMCO** as Governor of North Cotabato and any other public positions she may now or hereafter hold for a period of ninety (90) days from receipt of this Resolution.

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 Secretary is requested to inform the Court of the action taken thereon within fifteen (15) days from receipt hereof.

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

SO ORDERED



⁵ 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 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.

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SARAH JANE T. FERNANDEZ

Associate Justice

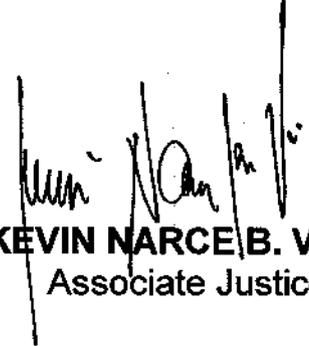
Chairperson

WE CONCUR:



KARL B. MIRANDA

Associate Justice



KEVIN NARCE B. VIVERO

Associate Justice