



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on October 15, 2018.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

SB-18-CRM-0379 – People v. Mario Patricio Paraz Barcenas, et al.

GOMEZ-ESTOESTA, J.:

In open court on September 10, 2018, accused Mario Patricio Paraz Barcenas, the incumbent Vice Mayor of Carcar City, Cebu, was directed to show cause in writing why he should not be preventively suspended pursuant to Section 13 of *Republic Act No. 3019*.¹

In compliance with the aforesaid directive the accused submitted an *Explanation*² on October 2, 2018, as follows:

1. Preventive suspension as a preventive measure will not serve its purpose of obviating the prosecutorial processes because all of the possible evidence the prosecution could present against the accused have already been gathered. Accused cannot wield influence over the prosecution's witnesses as they are no longer presently connected with the LGU of Carcar City, Cebu. As such, the evil sought to be averted no longer exists. Accused thus seeks a liberal interpretation of the mandatory rule on preventive suspension.

2. By reiterating the same argument that he has previously raised in another pleading³ and which had already been passed upon by the

¹ Order dated September 10, 2018 (Records, Vol. 1, p. 442)

² Records, Vol. 1, pp. 425-431

³ Accused's Omnibus Motion (To Quash the Criminal Information, To Quash the Warrant of Arrest and/or To Dismiss the Case) dated June 26, 2018 (Records, Vol. 1, pp. 151-168); *See also* accused's Motion for Reconsideration dated September 3, 2018 (Records, Vol. 1, pp. 401-407)

Handwritten initials/signature

Court,⁴ accused echoes that the Information violates his right to be informed of the nature and cause of the accusation against him. This time, however, accused raised the ground that since the Information made use of the conjunction “or” in stating that he allegedly “[acted] with manifest partiality, evident bad faith, or gross inexcusable negligence,” the prosecution has miserably failed to allege with certainty the mode, acts, or omissions which constituted the offense. The Information is further defective for not charging an offense against the accused as it merely alleged that “[accused] . . . did then and there willfully, unlawfully, and criminally, give MMCGM, through Castillo unwarranted benefits, privilege and advantage by entering into a contract to purchase 166 liters/bottles of foliar fertilizers[.]” By simply entering into a contract is not a crime in itself without clearly stating by what manner how such act gave any person or entity unwarranted benefits, privilege and advantage.

Accused thus prayed that he be not preventively suspended.

OUR RULING

The accused should be preventively suspended; a different course of action cannot be chartered by the Court.

Section 13 of *Republic Act No. 3019 (R.A. 3019)* provides:

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.

xxx xxx xxx

Accused was arraigned and pleaded not guilty⁵ under a valid Information for violation of Section 3 (e) of *R.A. 3019*. Section 13, *supra*, makes it mandatory for this Court to suspend any public officer against whom a valid information is filed charging a violation of said law, Title 7, Book II of the *Revised Penal Code*, or for any offense involving fraud upon government or public funds or property.⁶ 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.⁷ There are no ifs and buts about it.⁸

⁴ The Court’s Resolution dated August 23, 2018 (Records, Vol. 1, pp. 356-364); *See also* the Court’s Order dated September 10, 2018 (Records, Vol. 1, pp. 410-411)

⁵ Records, Vol. 1, p. 442

⁶ *Flores v. Layosa*, G.R. No. 154714, August 12, 2004

⁷ *Ibid*

⁸ *Beroña v. Sandiganbayan*, G.R. No. 142456, July 27, 2004

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As to the issue raised by the accused of the alleged violation of his right to be informed of the nature and cause of the accusation, this is off tangent in proceedings for preventive suspension. Such issue, if at all, would be better ventilated in the filing of a motion for bill of particulars.

The Court possesses no discretion, not even liberality, 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 or she may frustrate the prosecution of the case, commit further acts of malfeasance, or do both.⁹

As to the duration of suspension, it is settled that the 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*.¹⁰

In fine, the preventive suspension of accused is warranted under the circumstances.

WHEREFORE, in view of the foregoing, Pursuant to Section 13 of *R.A. 3019*, accused Mario Patricio Paraz Barcenas is hereby suspended from his position as Vice Mayor of Carcar City, Cebu and from any public office which he may now or hereafter be holding 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 accused shall be automatically lifted upon expiration of the ninety-day period from the implementation of this Resolution.

SO ORDERED.


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

⁹ *Dela Cruz v. Sandiganbayan*, G.R. No. 161929, December 8, 2009, citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996)

¹⁰ *Layus v. Sandiganbayan*, G.R. No. 134272, December 8, 1999 which cited *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998

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WE CONCUR:



ZALDY V. TRESPESES
Associate Justice



GEORGINA D. HIDALGO
Associate Justice

