



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

LEONILA PAREDES MONTERO,
Accused.

SB-18-CRM-0434 to 0441

For: Violation of Sec. 3(e) of
R.A. 3019 and Violation of
Art. 244 of the Revised Penal
Code

Present:

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

Promulgated:

JUL 02 2019

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RESOLUTION

VIVERO, J.:

For resolution is accused Leonila Paredes Montero's
Suspension Pendete Lite.

This Court, in its Order dated 21 March 2019¹ and pursuant to
Section 4, Rule VIII of the Revised Internal Rules of the
Sandiganbayan, directed accused Montero, an incumbent Municipal
Mayor of Panglao, Bohol, to show cause within a non-extendible
period of ten (10) days from receipt of such Order why she should not
be suspended *pende lite* in accordance with Section 13 of Republic
Act No. 3019.

¹ Record, Vol. 2, p. 155.

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In her Compliance with Manifestation dated 05 May 2019², accused Montero alleges that the evil sought to be avoided by law through her suspension no longer applies because all investigations have already been completed and terminated. She stated that on 10 April 2019, the prosecution manifested that it will be presenting its last witness during the next scheduled hearing on 22 May 2019.

Accused further argues that during the investigation phase, she never manipulated or coerced the persons involved into altering or withholding any information or document related to the case. She cited the 28 June 2018 Decision of the Court of Appeals which ruled that records do not show that she had the propensity and penchant to violate the law.

RULING

The Court does not find merit in accused Montero's arguments.

In *Flores, et al., vs. Layosa, et al.*,³ the Supreme Court held:

"It is settled that once a court determines that the information charging a public officer with an offense under R.A. No. 3019 or Title 7, Book II of the Revised Penal Code, or any other offense involving fraud upon government or public funds or property is valid, it is bound to issue an order of preventive suspension of the accused public officer as a matter of course."

Section 13 of R.A. 3019 provides:

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 Seven 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 convinced by final judgement, 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

² Record, Vol. 2, pp. 168-170.

³ G.R. No. 154714, 12 August 2004.

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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 been separated from the service has already received such benefits he shall be liable to restitute the same to the government.

Under this section, to warrant a preventive suspension, the following conditions must be present: (1) the accused is an incumbent public official; and (2) the accused is charged under a valid information which involves a violation of R.A. No. 3019, felonies under Title Seven, Book Two of the Revised Penal Code, or for any offense involving fraud upon the government.

Accused Montero is an incumbent public official.

The Service Record⁴ of accused Montero shows that in 2013, she was elected as Municipal Mayor of Panglao, Bohol, for a 3-year term.

Accused Montero is charged under four valid Informations for violation of R.A. No. 3019 and four valid Informations for violation of Article 244 of the Revised Penal Code

Accused Montero was arraigned on 03 August 2018, during which she entered a plea of "not guilty" to the charges in the Informations against her. Having entered her plea, accused Montero is deemed to have waived any objection she may have on the validity of the Informations under which she was charged.

In ***Miranda vs. Sandiganbayan, et al.***,⁵ the Supreme Court stressed:

xxx It is basic that entering a plea waives any objection the petitioner may have to the validity of the information except on the following grounds: (1) the information charges no offense; (2) the trial court has no jurisdiction over the offense charged; (3) the penalty or the offense has been extinguished; and (4) double jeopardy has attached. Objections to the sufficiency of the allegations in the Amended Information do not fall among the exceptions to the rule. They fall under the objection that the information "does not conform substantially to the

⁴ Exhibit A-1 for the prosecution.

⁵ G.R. No. 154098, 27 July 2005.

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prescribed form. "Needless to state, the petitioner has by his acts acquiesced to the validity and sufficiency of the Amended Information. xxx xxx xxx

Under the obtaining facts, it becomes the mandatory duty of the Court to suspend the accused.

The mandatory nature of preventive suspension under R.A. No. 3019 was emphasized in ***Beroña, et al., vs. Sandiganbayan***,⁶ to wit:

Section 13 is so clear and explicit that there is hardly room for any extended court rationalization of the law. Section 13 unequivocally mandates the suspension of a public official from office pending a criminal prosecution under RA 3019 or Title 7, Book II of the Revised Penal Code or for any offense involving public funds or property or fraud on government. This Court has repeatedly held that such preventive suspension is mandatory, and there are no 'ifs' and 'buts' about it.

WHEREFORE, premises considered, the Court hereby orders the suspension *pendete lite*, for a period of ninety (90) days, of accused Leonila Paredes Montero, as Mayor of the Municipality of Panglao, Bohol, and from any other public position the accused may now or hereafter hold.

Accused Montero shall immediately cease and desist from performing the functions of her office upon the implementation of this *Order of Preventive Suspension*. The suspension of the accused shall automatically be lifted upon the expiration of the 90-day period from the implementation of this resolution.

Let a copy of this Resolution be furnished the Secretary of the Interior and Local Government for the implementation of this order of suspension. The Secretary of DILG is directed to inform the Court of the action taken within fifteen (15) days from receipt hereof.

SO ORDERED.



⁶ G.R. No. 142456, 27 July 2004.

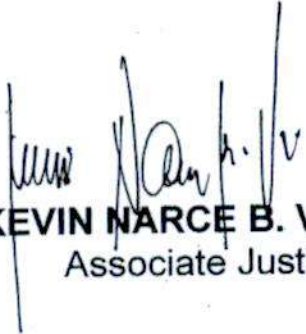
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KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL B. MIRANDA
Associate Justice