



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-17-CRM-0778 to 0781**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

**SB-17-CRM-0782 to 0785**  
For: Malversation of Public Funds  
under Art. 217 of the RPC

**SB-17-CRM-0786 to 0922**  
For: Falsification of Public Document  
under Art. 171 of the RPC

*Present*

- versus -

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

**DATU SAJID ISLAM UY**  
**AMPATUAN, ET AL.,**

Accused.

*Promulgated:*

**OCT 01 2019**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

In the Order dated July 31, 2019, this Court directed accused Datu Sajid Islam Uy Ampatuan to show cause why he should not be suspended *pendente lite* in accordance with Section 13 of Republic Act No. 3019 (R.A. No. 3019).<sup>1</sup>

<sup>1</sup> 2018 Revised Internal Rules of the Sandiganbayan. Rule VIII, 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.

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In his *Show Cause (to the Order dated 31 July 2019 For Datu Sajid Islam Uy Ampatuan)*,<sup>2</sup> accused Ampatuan avers:

1. He is not the incumbent Provincial Governor of Maguindanao, Autonomous Region in Muslim Mindanao (ARMM), nor does he occupy any position in the Provincial Government where he may exert undue influence.
2. The prosecution had already terminated its presentation of witnesses, and hence, he would not be able to intimidate them.
3. His suspension would deprive his constituents in the Municipality of Shariff Saydona Mustapha of his services as Municipal Mayor.

### THE COURT'S RULING

Sec. 13 of R.A. No. 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. 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.

In the event that such convicted public officer, who may have already been separated from the service, has already received such benefits he shall be liable to reconstitute the same to the Government.

In *Bustillo v. Sandiganbayan*,<sup>3</sup> it was held that “[s]uspension from office is mandatory whenever a valid information charges an incumbent public officer with (1) violation of RA 3019; (2) violation of Title 7, Book II of the RPC; (3) any offense involving fraud upon government; or (4) any offense involving fraud upon public funds or property. x x x”

<sup>2</sup> Dated September 3, 2019 and filed on September 12, 2019

<sup>3</sup> G.R. No. 146217, April 7, 2006

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Here, accused Ampatuan is an incumbent Mayor of the Municipality of Shariff Saydona Mustapha, and is charged with several counts of violation of Sec. 3(e) of R.A. No. 3019, Malversation of Public Funds,<sup>4</sup> and Falsification of Public Document.<sup>5</sup>

In *Luciano v. Mariano*,<sup>6</sup> it was held that there is a need to, first, determine in a pre-suspension hearing, the validity of an information before suspension under Sec. 13 of R.A. No. 3019 can be effected, considering the serious and far reaching consequences of such suspension. The Supreme Court further explained the nature of said pre-suspension hearing, thus:

(d) No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him, e.g. that he has not been afforded the right of due preliminary investigation; that the acts for which he stands charged do not constitute a violation of the provisions of Republic Act No. 3019 or of the bribery provisions of the Revised Penal Code which would warrant his mandatory suspension from office under section 13 of the Act; or he may present a motion to quash the information on any of the grounds provided in Rule 117 of the Rules of Court. The mandatory suspension decreed by the Act upon determination of the *pendency* in court of a criminal prosecution for violation of the Anti-Graft Act or for bribery under a valid information requires at the same time that the hearing be expeditious, and not unduly protracted such as to thwart the prompt suspension envisioned by the Act. Hence, if the trial court, say, finds the ground alleged in the quashal motion not to be indubitable, then it shall be called upon to issue the suspension order upon its upholding the validity of the information and setting the same for trial on the merits.

Here, although accused Ampatuan did not file a motion to quash the Informations, he had every chance to do so. He was given a fair and adequate opportunity to challenge the validity of the proceedings, yet he agreed to be arraigned and chose to proceed to trial. Thus, he is deemed to have waived his objections to the validity of the Informations and the proceedings.

In fine, the requisites for suspension under Sec. 13 of R.A. No. 3019 have been met.

  
<sup>4</sup> Art. 217, Chapter IV, Title 7, Book II of the Revised Penal Code

<sup>5</sup> In *Bustillo v. Sandiganbayan* (*supra*. Note 2), the Supreme Court held that Falsification under Art. 171 of the Revised Penal Code is a crime that involves "fraud upon government or public funds or property."

<sup>6</sup> G.R. No. L-32950, July 30, 1971; cited in *Miguel v. Sandiganbayan*, G.R. No. 172035, July 4, 2012

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Accused Ampatuan's arguments in opposition to such suspension are substantially the same as those in *Beroña v. Sandiganbayan*.<sup>7</sup> In rejecting these arguments, the Supreme Court held:

***Suspension pendente lite applies to any office the officer might be currently holding***

Petitioners contend that the Sandiganbayan has no legal basis to suspend them because they are presently occupying positions different from those under which the Information charged them. We have long settled this issue. In *Libanan v. Sandiganbayan*, the petitioner similarly claimed that the order of suspension, based on his indictment as a member of the Sangguniang Bayan, could no longer attach to him, as he was already the duly elected and incumbent Vice-Governor of Eastern Samar. Rejecting his thesis, the Court explained:

In *Deloso v. Sandiganbayan*, this Court rejected a similar argument advanced by Governor Deloso who, at the time of issuance of the suspension order, was already occupying the office of governor and not the position of municipal mayor that he held previously when charged with having violated the Anti-Graft Law. Prior to *Deloso*, in *Bayot v. Sandiganbayan*, the suspension of then Cavite Mayor Bayot was also sustained even as he was charged for acts committed as government auditor of the Commission on Audit.

The Court reiterated this doctrine in *Segovia v. Sandiganbayan* in this wise:

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.

***Suspension pendente lite prevents the accused from committing further acts of malfeasance while in office***

Petitioners' other contention that there is no longer any danger that petitioners would intimidate prosecution witnesses since two of the latter's witnesses had already completed their testimonies in court is also untenable. Equally futile is their claim that Dr. Beroña's suspension would deprive his constituents in the

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<sup>7</sup> G.R. No. 142456, July 27, 2004

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Municipality of Pilar, the services and leadership of their highest elected municipal official to the greater detriment of public service.

These reasons cannot override the mandatory character of Section 13. The possibility that the accused would intimidate witnesses or hamper their prosecution is just one of the grounds for preventive suspension. Another is to prevent the accused from committing further acts of malfeasance while in office. Thus, we held in ***Bolastig v. Sandiganbayan*** that –

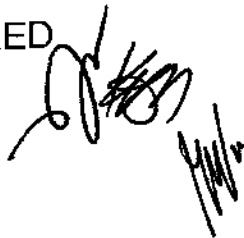
x x x, the fact that petitioner's preventive suspension may deprive the people of Samar of the services of an official elected by them, at least temporarily, is not a sufficient basis for reducing what is otherwise a mandatory period prescribed by law. The vice governor, who has likewise been elected by them, will act as governor. Indeed, even the Constitution authorizes the suspension for not more than sixty days of members of Congress found guilty of disorderly behavior, thus rejecting the view expressed in one case that members of the legislature could not be suspended because in the case of suspension, unlike in the case of removal, the seat remains filled but the constituents are deprived of representation.

**WHEREFORE**, the Court hereby orders the suspension *pendente lite* of accused DATU SAJID ISLAM UY AMPATUAN as Mayor of the Municipality of Shariff Saydona Mustapha, Maguindanao, and from any other public position he 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 the Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary of the DILG is requested to inform this Court of the action taken thereon within fifteen (15) days from receipt hereof.

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

SO ORDERED



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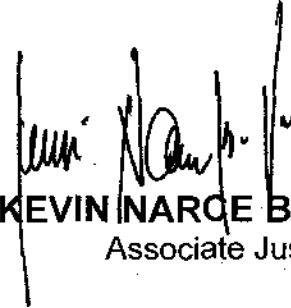


**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**



**KARL B. MIRANDA**  
Associate Justice



**KEVIN NARCE B. VIVERO**  
Associate Justice