

CERTIFIED TRUE PHOTOCOPY:
Toffa M.C. Zapata
Atty. Gen. T. Zapata
Clerk of Court III
Fourth Division, Sandiganbayan

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-06-CRM-0457
To SB-06-CRM-0464

-versus-

Present:
ONG, J.: Chairman
HERNANDEZ, J and
MARTIRES, J.

MILAGROSA TEE TAN, ET AL.,
Accused.

Promulgated on:

July 11, 2008

Toffa M.C. Zapata

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RESOLUTION

Hernandez, J.:

This resolves the Plaintiff's Motion to Suspend Accused *Pendente Lite* ("Motion") dated 24 March 2008 together with the opposing pleadings subsequently filed.

The Plaintiff avers in its Motion that with the arraignment of the accused for violation of Section 3 (e) of Republic Act No. 3019, the issue of the validity of the information has been sealed already. Except accused Reynaldo A. Yabut ("Yabut"), a private individual; Damiano Z. Conde ("Conde"), who is no longer in public service; and Aurelio C. Bardaje, Jr. ("Bardaje"), who was terminated from the service by accused Milagrosa T. Tan ("Tan"), all the other accused namely, Tan, Rolando B. Montejo ("Montejo"), Romeo C. Reales ("Reales"), Maximo D. Sison ("Sison"), and Numeriano C. Legaspi ("Legaspi") are still public officers being the incumbent Provincial Governor, Provincial Administrative Officer, Provincial Accountant, Provincial Budget Officer, Property Inspection Officer, respectively, of the Provincial Government of Western Samar.¹

On the other hand, accused Tan filed a Comment/Opposition/Motion to Declare Null and Void/Strike Out/ Expunge² and argues that:

¹ Sitting as Special Member per Adm. Order No. 154-2007 dated December 21, 2007

² Plaintiff's Motion to Suspend Accused *Pendente Lite*, dated 24 March 2008, p. 2.

³ Comment/Opposition/Motion to Declare Null and Void/Strike Out/ Expunge, dated 21 April 2008 and filed on 22 April 2008.

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1. The Motion is fatally defective in form and substance. It was filed only for Criminal Case No. SB-06-CRM-0457 despite the fact that this is just one of eight cases which were consolidated by this Honorable Court on Motion of the Prosecution itself. It violates the avowed purpose of consolidation which is to avoid multiplicity of action and to guard against oppression or abuse, prevent delay, simplify the work of the trial court and to save unnecessary costs and expenses.

2. The Motion, if allowed, is unreasonable and oppressive. It will enable the Prosecution to file piecemeal motions and cause the successive suspension of the accused in the other cases, depriving her of the right and obligation to serve her constituents during her term of office.

3. The Motion, if allowed, violates the right of the accused to equal protection of the law. She has been singled out to face successive suspensions.

It is worthy to note that Tan's counsel made a manifestation before this Court withdrawing Tan's Comment/Opposition and Motion to Declare Null and Void/ Strike Out/ Expunge during the hearing held on 25 April 2008.³

Accused Montejo argues that Plaintiff failed to serve on him a copy of the Plaintiff's Motion to Suspend Accused *Pendente Lite*. This is a fatal defect which cannot be cured merely by requiring him to file a comment on the motion.⁴ Insofar as he is concerned, it is a mere scrap of paper that must be stricken off the records which this Court cannot act upon.⁵

It is worthy to note that the Court granted the motion of Montejo considering that the prosecution admitted its failure to furnish Montejo a copy of the motion to suspend. In an Order dated May 7, 2008, this Court directed the prosecution to re-file this motion to suspend Montejo and comply with the Sections 4 to 6, Rule 15 of the Rules of Court. In compliance with the said Order, the prosecution filed the Motion to Suspend Accused Montejo on May 7, 2008.

In his Comment/Opposition dated 23 May 2008 and filed on 29 May 2008, Montejo avers that he questioned the denial of his Motion to Quash Information before the Supreme Court on May 12, 2008 by filing a Petition for Certiorari and Prohibition with prayer for issuance of a Temporary Restraining Order, docketed as G.R. No. 182625. He argues that as a matter of judicial courtesy and practical and ethical considerations, the motion to suspend Montejo should be held in abeyance pending resolution of his petition.

Accused Reales, in his Opposition, argues that the motion should be struck down because it was filed with the motive to seek orders of suspension successively one after the other.⁶ A cursory examination of the evidence will show that he has no participation in the alleged acts.⁷ Also, at that time, he was not serving as Provincial Accountant. The OIC-

³ Minutes of the Session, Records, Vol. v, p. 61.

⁴ Motion dated 22 April 2008 and filed on 24 April 2008, p. 1.

⁵ *Ibid.*, p. 2.

⁶ Opposition, dated 26 April 2008 and filed on 28 April 2008.

⁷ *Ibid.*, p. 2.

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Provincial Accountant Francasio Detosil signed all the vouchers, abstract of bids, ALOBS (Allotment and Obligation Slips)/ ROA (Request for Obligation of Allotment). Moreover, he argues that the purpose of the law to order the suspension, so as to prevent the accused from influencing the witnesses or from posing a threat to the safety and integrity of the records and other evidence, does not exist. Also, the records of the case are now with the Commission on Audit main office and far from the reach of accused Reales.⁸

Accused Sison argues that the acts alleged do not constitute an offense and the motion fails to state in sufficient terms to enable a person of common understanding to know what offense is being charged.⁹

Accused Legaspi argues that there is no reason to suspend him because:

1. The Prosecution has already secured and gathered all the necessary documentary evidence needed. There are no more documents to protect.¹⁰
2. He is being considered by the Prosecution to be a State Witness. This is another proof that he has no motivation to influence potential witnesses or to tamper with vital records.¹¹

Ruling

The authority of this Court to impose suspension *pendente lite* upon the accused is found in Section 13 of Republic Act No. 3019 which 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 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 or 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. (Emphasis ours)

Mandatory Character

The Supreme Court underlined the mandatory character of preventive suspension provided under the law in the case of Flores vs. Layosa¹². It ruled:

*"As the offense for which petitioners are charged clearly falls under Section 13, R.A. No. 3019, it follows that their suspension *pendente lite* is mandatory pursuant to the said law and pertinent jurisprudence. The trial*

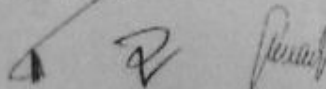
⁸ *Ibid.*, p. 3.

⁹ Comment/Opposition dated 26 April 2008 and filed on 5 May 2008, p. 2.

¹⁰ Opposition/Comments dated 22 April 2008 and filed on 23 April 2008, p. 1.

¹¹ *Ibid.*, p. 2.

¹² Flores vs. Han-Layosa, G.R. No. 154714, August 12, 2004.



court is left with no other alternative but to order the suspension of the accused public official *pendente lite* upon being convinced that the information charges the accused with acts of fraud involving government funds. Its duty to order the suspension of the accused *pendente lite* is mandatory in character and must be issued by the court regardless of whether the prosecution files a motion for the preventive suspension of the petitioners, or if the motion is filed by the counsel of the government agency concerned, with or without the conformity of the public prosecutor. In fact, Section 13, R.A. No. 3019, as worded, allows the court to issue such suspension order *motu proprio*.

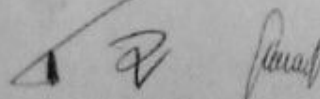
"The Court in *Bolastig vs. Sandiganbayan* emphasized the mandatory nature of the preventive suspension required under Section 13, R.A. No. 3019 in this wise:

[S]ection 13 of Republic Act No. 3019 makes it mandatory for the Sandiganbayan to suspend any public officer against whom a valid information charging violation of that law, Book II, Title 7 of the Revised Penal Code, or any offense involving fraud upon government or public funds or property is filed. The Court trying a case has neither discretion nor duty to determine whether or not a preventive suspension is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office. The presumption is that unless the accused is suspended he may frustrate his prosecution or commit further acts of malfeasance or do both, in the same way that upon a finding that there is probable cause to believe that a crime has been committed and that the accused is probably guilty thereof, the law requires the judge to issue a warrant of arrest of the accused. The law does not require the court to determine whether the accused is likely to escape or evade the jurisdiction of the court.

"Again, in *Socrates vs. Sandiganbayan*, the Court reiterated the doctrine that the preventive suspension under Section 13, R.A. No. 3019 is compulsory, thus:

...[I]t is evident that 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.

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

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about it. This is because a preventive suspension is not a penalty. It is not imposed as a result of judicial proceedings. In fact, if acquitted, the official concerned shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension. . . Taking into consideration the public policy involved in preventively suspending a public officer charged under a valid information, the protection of public interest will definitely have to prevail over the private interest of the accused."

The Supreme Court also discussed the mandatory character of preventive suspension in *Beroña vs. Sandiganbayan*¹³, to wit:

"This issue is neither new nor controversial. In a long line of cases, we have rejected the same arguments petitioners now raise. As in previous cases resolving the same issues, the answer will not change.

"The Information charged petitioners under Section 3 (e) of RA 3019 for "causing undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence." Section 13 of the same law reads:

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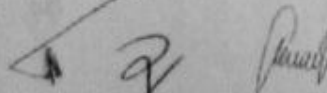
"Section 13 is so clear and explicit that there is hardly room for any extended court rationalization of the law. Section 13 unequivocally mandates the suspension of a public official from office pending a criminal prosecution under RA 3019 or Title 7, Book II of the Revised Penal Code or for any offense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

"The purpose of a pre-suspension hearing is to determine the validity of the information. The court can then have a basis to either suspend the accused and proceed with the trial on the merits of the case, or withhold the suspension and dismiss the case, or correct any part of the proceedings that impairs its validity. That hearing is similar to a challenge to the validity of the information by way of a motion to quash. In this case, the Sandiganbayan had determined the validity of the information in a pre-suspension hearing conducted for that purpose. Hence, petitioners' suspension is unquestionably mandatory."

Purpose of Suspension *Pendente Lite*

The Supreme Court has put emphasis on the rationale behind the need to impose a preventive suspension pending litigation. In the *Beroña* case, it ruled:

¹³ G.R. No. 142456, July 27, 2004

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"Section 13 reinforces the principle that a public office is a public trust. Its purpose is to prevent the accused public officer from hampering his prosecution by intimidating or influencing witnesses, tampering with documentary evidence, or committing further acts of malfeasance while in office. Petitioners' last feeble argument that the prosecution evidence is weak misses the point. They lose sight of the fact that preventive suspension is not a penalty. The accused public officers whose culpability remains to be proven are still entitled to the constitutional presumption of innocence. The presence or absence of the elements of the crime is evidentiary in nature which court will pass on after a full-blown trial on the merits."

Also, in *Barrera vs. People*¹⁴, the Supreme Court held:

"It is petitioner's contention that Section 13, R.A. 3019 should not be taken in isolation but should be viewed in light of the rationale behind the suspension, the purpose being to prevent the officer or employee from using his position and the powers and prerogatives of his office to influence potential witnesses or tamper with the records which may be vital in the prosecution of the case against him. And, so petitioner maintains, since the prosecution failed to prove, if not substantially allege that he is abusing the prerogatives of the office, intimidating possible witnesses and/or tampering with documentary evidence during the pendency of the cases against him, the suspension order should not have been issued.

"It has been long settled, however, and it bears reiteration that Section 13 of R.A. No. 3019, as amended, unequivocally provides that the accused public official "shall be suspended from office" while the criminal prosecution is pending in court. The rule on the matter is specific and categorical, leaving no room for interpretation. There are no ifs and buts about it. The court has neither the discretion nor duty to determine whether preventive suspension is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office. *Bolastig v. Sandiganbayan* so teaches."

Pre-Suspension Hearing

As to need of a hearing before the imposition of preventive suspension, the Supreme Court has explained in *Torres v. Garchitorena*¹⁵:

"Petitioners contend that the Sandiganbayan committed grave abuse of discretion in ordering their suspension from office *pendente lite* without the conduct of a full-blown hearing. By so doing, the petitioners argue, the people of Noveleta, Cavite were deprived of the services of the petitioners as the duly elected Mayor and appointed Municipal Engineer. The Sandiganbayan for its part ruled on petitioners' contentions, thus:

¹⁴ G.R. Nos. 145233-35, May 28, 2004

¹⁵ G.R. No. 153866, December 27, 2003



Finally, as to the submission of the accused that a full-blown pre-suspension hearing be first conducted before the resolution of the motion to suspend accused, suffice it to state that the requisite pre-suspension hearing is precisely intended solely to determine the applicability of Section 13, of R.A. 3019, and this we now do. What is required only is that the accused be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him (*People vs. Albano, et al* 163 SCRA 511) and this requirement has been complied with when the accused was heard on the matter through various pleadings as heretofore stated. The pronouncement of the Supreme Court in the case of *Albano* is clear on this point, thus:

Considering the mandatory suspension of the accused under a valid information, the law does not contemplate a proceeding to determine (1) the strength of the evidence of culpability against him, (2) the gravity of the offense charged, or (3) whether or not his continuance in office could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence, so that a court can have a valid basis in evaluating the advisability of his suspension pending the trial proper of the case filed against him. Besides, a requirement that the guilt of the accused must first be established in the pre-suspension proceeding before trial proper can proceed would negate the ruling of the court that the "... mandatory suspension... 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 and make the trial proper a surplusage." ...

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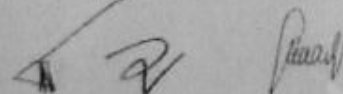
"We are in full accord with the disquisitions and ratifications of the Sandiganbayan. The suspension *pendente lite* by the Sandiganbayan of petitioners who were accorded full opportunity to ventilate the issue of the insufficiency of the information for said court, through the filing of pleadings, is inevitable and unassailable, considering our affirmation of the validity of the information fled against them."

In *Santiago vs. Sandiganbayan*¹⁶, the Supreme Court held:

"*En passant*, while the imposition of suspension is not automatic or self-operative as the validity of the information must be determined in a pre-suspension hearing, there is no hard and fast rule as to the conduct thereof. It has been said that -

"... No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should

¹⁶ 336 SCRA 636, 645-647 (2001).



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 3019 or 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 for in Rule 117 of the Rules of Court.

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"Likewise he is accorded the right to challenge the propriety of his prosecution on the ground that the acts for which he is charged do not constitute a violation of Rep. Act 3019, or of the provisions on bribery of the Revised Penal Code, and the right to present a motion to quash the information on any other grounds provided in Rule 117 of the Rules of Court.

"However, a challenge to the validity of the criminal proceedings on the ground that the acts for which the accused is charged do not constitute a violation of the provisions of Rep. Act 3019, or of the provisions on bribery of the Revised Penal Code, should be treated only in the same manner as a challenge to the criminal proceeding by way of a motion to quash on the ground provided in paragraph (a), Section 2 of Rule 117 of the Rules of Court, i.e., that the facts charged do not constitute an offense. In other words, a resolution of the challenge to the validity of the criminal proceeding, on such ground, should be limited to an inquiry whether the facts alleged in the information, if hypothetically admitted, constitute the elements of an offense punishable under Rep. Act 3019 or the provisions on bribery of the Revised Penal Code."

"The law does not require that the guilt of the accused must be established in a pre-suspension proceeding before trial on the merits proceeds. Neither does it contemplate a proceeding to determine (1) the strength of the evidence of culpability against him, (2) the gravity of the offense charged, or (3) whether or not his continuance in office could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence before the court could have a valid basis in decreeing preventive suspension pending trial of the case. All it secures to the accused is adequate opportunity to challenge the validity or the regularity of the proceedings against him, such as, that he has not been afforded the right to due preliminary investigation, that the acts imputed to him do not constitute a specific crime warranting his mandatory suspension from office under Section 13 of Republic Act No. 3019, or that the information is subject

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to quashal on any of the grounds set out in Section 3, Rule 117, of the Revised Rules of Criminal Procedure.”

Applies to any office the officer might be currently holding

The Supreme Court has ruled that the *suspension pendente lite* applies to the any office the officer is currently holding although it may be different from the prior office under which the Information was charged. In *Beroña vs. People*¹⁷, the Supreme Court ruled

“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 x x x. 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)”

Public Officers are not indispensable

In *Torres vs. Garchitorena*¹⁸, the Supreme Court held that the argument of the accused public officer that he/she cannot be suspended because the public would be

¹⁷ G.R. No. 142496, July 27, 2004.

¹⁸ G.R. No. 153666, December 27, 2002.

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deprived of his/her services is untenable. The Court has held that nobody is indispensable in a public office, it ruled:

"Likewise untenable is the contention of the accused that should they be suspended, the people of the Municipality of Noveleta, Cavite would be deprived of the services of the man they elected as Municipal Mayor and their Municipal Engineer. To begin with, nobody is indispensable in a public office. There will always be other persons who can be appointed to the temporarily vacated offices and the law has seen to that in many instances with due regard to the situation cited by the accused therein.

"The Supreme Court in the case of *Bunye vs. Escareal*, 226 SCRA 332, upheld the order of suspension issued against the accused and disposed of this issue in this wise:

The fear of the petitioners that the municipal government of Muntinlupa will be paralyzed for ninety (90) days when they (petitioners) are preventively suspended is remote. There will still remain eight (8) councilors who can meet as the Sangguniang Bayan. The President or his alter ego, the Secretary of Interior and Local Government, will surely know how to deal with the problem of filling up the temporary vacant positions of mayor, vice-mayor and six councilors in accordance with the provisions of the Local Government Code, Republic Act No. 7160. . . ."

90-day Period of Suspension is Mandatory

In *Bolastig vs. Sandiganbayan*¹⁹, the Supreme Court has held that:

"It is indeed true that in some of our decisions the expression "the maximum period of ninety (90) days" is used. But that is only for the purpose of emphasizing that the preventive suspension therein involved, which were for more than ninety (90) days, were excessive and unreasonable. It is to be noted that the ninety-day period of preventive suspension is not found in Sec. 13 of Republic Act No. 3019 but was adopted from Sec. 42 of the Civil Service Decree (P.D. No. 807), which is not Sec. 52 of the Administrative Code of 1987. This latter provision states:

Sec. 52. Lifting of Preventive Suspension Pending Administrative Investigation. - When the administrative case against the officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of ninety (90) days after the date of suspension of the respondent who is not a presidential appointee, the respondent shall be automatically reinstated in the service: Provided, That when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the period of suspension herein provided.

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"The duration of preventive suspension is thus coequal with the period prescribed for deciding administrative disciplinary cases. If the case is decided before ninety days, then the suspension will last less than ninety days, but if the case is not decided within ninety days, then the preventive suspension must be up to ninety days only. Similarly, as applied to criminal prosecutions under Republic Act No. 3019, preventive suspension will last for less than ninety days only if the case is decided within that period; otherwise, it will continue for ninety days.

"The duration of preventive suspension will, therefore, vary to the extent that it is contingent on the time it takes the court to decide the case but not on account of any discretion lodged in the court, taking into account the probability that the accused may use his office to hamper his prosecution.

"Indeed, were the Sandiganbayan given the discretion to impose a shorter period of suspension, say, 80, 70 or 60 days, as petitioner asserts, it would lie in its power not to suspend the accused at all. That, of course, would be contrary to the command of Sec. 13 of Republic Act No. 3019."

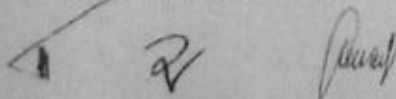
Petition shall not interrupt the course of the principal case unless a Temporary Restraining Order (TRO) or a writ of preliminary injunction has been issued

Although Montejo questioned the denial of his Motion to Quash Information before the Supreme Court by filing a Petition for Certiorari and Prohibition with prayer for issuance of a Temporary Restraining Order (TRO), it is observed that the Supreme Court did not issue a TRO or a writ of preliminary injunction against this Court from proceeding in this case. It behooves this Court to proceed in resolving the motion notwithstanding the pendency of G.R. No. 182625 before the Supreme Court.

The Supreme Court has ruled that this is unequivocal from Sec. 7 of Rule 65 of the Rules of Court which provides that the "petition shall not interrupt the course of the principal case unless a TRO or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case." It said that this rule should be strictly adhered to by the lower court notwithstanding the possibility that the proceedings undertaken by the lower court tend to or would render nugatory the pending petition before the Supreme Court. As long as there is no directive from the Supreme Court for the lower court to defer action in the case, the latter would not be faulted if it continues with the proceedings in said case.²³

ACCORDINGLY, the Plaintiff's Motion to Suspend Accused *Pendente Lite* is GRANTED. The accused public officers namely, **Milagrosa T. Tan, Rolando B. Montejo, Romeo C. Reales, Maximo D. Sison, and Numeriano C. Legaspi** are ordered preventively suspended from their present positions as incumbent Provincial Governor, Provincial Administrative Officer, Provincial Accountant, Provincial Budget Officer, Property Inspection Officer, respectively, in the Provincial Government of Western Samar, or from

²³ *Oy vs. Lopyuko*, G.R. Nos. 147923, 147962 and 148025, October 26, 2007.



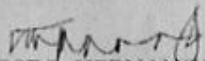
any other government position they may now or afterwards hold for a period of **NINETY DAYS (90) DAYS**, effective immediately upon receipt and implementation of this resolution.


The Secretary of Interior and Local Government²¹ (with respect to Milagrosa T. Tan) as well as the Vice-Governor²² of Western Samar (with respect to the **Rolando B. Montejo, Romeo C. Reales, Maximo D. Sison, and Numeriano C. Legaspi**) are directed to implement the preventive suspension of the accused public officers for ninety (90) days. The Secretary of Interior and Local Government and the Vice-Governor of Western Samar are likewise directed to inform this Court of the action taken with regard to the suspension of the accused public officers within five (5) days from receipt of this resolution. They are also directed to inform this Court of the actual date of implementation of the suspension, together with the expiry of the ninety-day period, so that it shall be deemed automatically lifted at the end of its term. 7

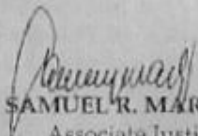
In the meantime, accused public officials are directed to cease and desist from exercising the functions and privileges of their office for ninety days (90) immediately upon receipt of this resolution.

SO ORDERED.

Quezon City, Metro Manila, Philippines.


JOSE R. HERNANDEZ
Associate Justice

WE CONCUR

GREGORY S. ONG
Associate Justice
Chairman


SAMUEL R. MARTIRES
Associate Justice

²¹ As alter ego of the President.

²² Implementing Rules of the Local Government Code of 1991, Rule XIV, Article 83, Section d (1) Temporary incapacity — When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave of absence, travel abroad, and suspension from office, the vice governor, city or municipal vice mayor, or the highest ranking saaggunilang barangay member shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned, except the power to appoint, suspend, or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days. (Emphasis ours)