

GOVERNOR AMOR D. DELOSO, PETITIONER, VS. THE SANDIGANBAYAN, THE PEOPLE OF THE PHILIPPINES, AND THE SECRETARY OF THE DEPARTMENT OF LOCAL GOVERNMENT AND COMMUNITY DEVELOPMENT, RES...

G.R. Nos. 86899-903. May 15, 1989

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-86899-903/>

GUTIERREZ, JR., J.:

This petition for certiorari seeks to annul and set aside the resolution of the Sandiganbayan dated February 10, 1989 in Criminal Cases Nos. 9200 to 9204 which preventively suspended petitioner Amor D. Deloso (accused in the criminal cases) pendente lite from his position as provincial governor of Zambales and from any office that he may be holding.

The petitioner was the duly elected mayor of Botolan, Zambales in the local elections of November 1971. While he occupied the position of mayor, a certain Juan Villanueva filed a letter complaint with the Tanodbayan accusing him of having committed acts in violation of the Anti-Graft Law (Republic Act 3019) in relation to the award of licenses to operate fish corrals in the municipal waters of Botolan, Zambales during the period 1976 to 1978 and the issuance of five (5) tractors of the municipality to certain individuals allegedly without any agreement as to the payment of rentals.

The complaint with respect to the award of licenses to operate fish corrals was dismissed. As regards the other complaint, the Tanodbayan filed five (5) separate informations, all dated May 30, 1984 accusing the petitioner of violation of Section 3(e), of the Anti-Graft Law with the Sandiganbayan. The cases were docketed as Criminal Cases Nos. 9200-9204. Except for the names of the individuals who were allegedly favored by the petitioner and the dates when these favors were made, the informations uniformly alleged:

"That on or about 3 February 1978 in the Municipality of Botolan, Zambales, Philippines and within the jurisdiction of this Honorable Court, accused AMOR D. DELOSO, a public officer being then the Municipal Mayor of the Municipality of Botolan, Zambales, taking advantage of his public and official position, did then and there wilfully, unlawfully and feloniously give unwarranted benefits to Daniel Ferrer thru manifest partiality and evident bad faith in the discharge of his official functions by issuing to him a tractor purchased by the Municipality of Botolan thru a loan financed by the Land Bank of the Philippines for lease to local farmers at reasonable cost, without any agreement as to the payment of rentals for the use of said tractor by Daniel Ferrer thereby causing undue injury to the Municipality of Botolan." (Rollo, p. 30)

A motion to quash the informations was denied by the Sandiganbayan. A motion for reconsideration was likewise denied.

The petitioner then filed a petition before us (G.R. NOS. 69963-67) to annul the Sandiganbayan's resolutions denying the petitioner's motion to quash and motion for reconsideration.

In a resolution dated July 28, 1988, we dismissed the petition for lack of merit. The resolution became final and executory on October 17, 1988.

The petitioner was arraigned on January 6, 1989 before the Sandiganbayan. He pleaded NOT GUILTY to the charges against him.

The Office of the Special Prosecutor then filed a motion to suspend the petitioner pendente lite pursuant to Section 13 of Republic Act No. 3019.

On February 10, 1989, the Sandiganbayan issued the questioned resolution, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, the accused Amor D. Deloso is suspended pendente lite from his position as Provincial Governor of Zambales and from any other office that he may now be holding.

"Let a copy of this Resolution be furnished to the Secretary of the Department of Local Government for implementation and for him to inform this Court of the action he has taken thereon within five (5) days from receipt hereof." (Rollo, p. 94)

The day following his receipt of the resolution, or on February 16, 1989, the petitioner filed the instant petition.

On February 17, 1989, the petitioner filed an urgent motion with the Sandiganbayan requesting that the execution and implementation of the February 10, 1989 suspension order be held in abeyance pending determination of the merits of the petition. The motion was denied prompting the petitioner to ask the Court for an earlier setting of the trial of the cases which was denied in an order dated February 22, 1989.

In denying the plea for an earlier schedule of the trial of the cases, the Sandiganbayan said:

"The Court notes that these cases have already been set for May 15, 16 and 17 as well as June 5, 6 and 7, 1989 at 8:00 o'clock in the morning and 2:00 o'clock in the afternoon. While the accused claims that this period is ordinatorily far, the Court must also be contend with its own calendar. It will be easy enough for this Court to give the accused an earlier setting. However, such a setting will be best a pretence since other cases have already been set between now and May 15 where in many instances the accused themselves are also under suspension by reason of the same provision of law. Under the above circumstances, no other earlier setting can be granted to the accused without making that setting merely a sham since other cases which have been set earlier will naturally have a right to expect priority." (Rollo, p. 135)

In view of this development, the petitioner filed an urgent supplemental application for a temporary restraining order and/or writ of preliminary injunction to enjoin the Sandiganbayan, the Secretary of Local Government and Community Development, and all those acting in their behalf from executing and implementing the February 10, 1989 resolution of the Sandigabayan.

We treat the respondent's Comment as an answer and decide this petition on its merits.

The petitioner questions the constitutionality of the suspension provision of Section 13 of the Anti-Graft Law (Republic Act. No. 3019).

This same issue was raised in the case of *Layno v. Sandiganbayan* (136 SCRA 536 (1985)). After considering the facts as well as the merits of the case, the Court ruled that the petition need not be resolved through a ruling on the validity of the provision on mandatory suspension. We instead, decided the case in relation to the principles of due process and equal protection of the law.

Faced with similar factual circumstances in the instant petition, we apply anew the ruling in the *Layno* case and decide the instant petition in relation to the principles of due process and equal protection without having to declare categorically whether or not the suspension provision of Republic Act 3019 should be struck down as

invalid. We limit ourselves to ascertaining whether or not, under the circumstances of this case, an indefinite suspension becomes unreasonable.

As early as 1974, then Justice Fred Ruiz Castro expressed in a separate opinion the mischief which would result if the Court allows the indefinite suspension of elective local officials charged with violations of the Anti-Graft and Corrupt Practices Act:

"The central point of Senator Padilla's position is 'that the penalty of suspension is definitely much lower than that of removal and it would be incongruous if we give to the penalty of suspension more serious consequences than are attached to the penalty of removal.' Senator Padilla opted for the immediate restoration of the respondent to his position once the favorable result of the election is known.

"Parenthetically, it must be stated that while there was an exchange of views between Senator Ganson and Senator Manglapus on the Anti-Graft Law, the exchange was limited to the matter of the commencement of the investigation of the charges, which, according to Senator Ganson, cannot be made within one year prior to an election.

"And so it is that, on the basis of my discussion above, I bewail the apathy of the majority of the Court toward efforts to seek enlightenment on legal issues of grave importance from the deliberations of Congress upon the said issues. It is not quite becoming of judicial magistrates to shunt aside a suggestion that the interplay of legal provisions be carefully studied and analyzed.

"In the deliberations of the Court on this case, I suggested that we examine the possible delimiting effects of the provisions of the first sentence of section 5 of the Decentralization Act on the provisions of the Anti-Graft and Corrupt Practices Act insofar as the suspension from office of an elective local official is concerned. In no uncertain words did I focus the attention of the Court on the serious ever-present possibility of harassment of an elective local official taking the form of the filing of a valid information against him under the provisions of the Anti-Graft and Corrupt Practices Act after his exoneration in an administrative case involving the same offense.

"I also pointedly brought out the matter of the notorious delay in the courts of justice which could effectively frustrate an elected or re-elected local official from discharging the duties of his office for the entire term of his office, and thus nullify the will of the people who elected him. I likewise asked the Court to consider the situation where an elective local official runs for the National Assembly and is elected despite the fact that he is under suspension under the authority of the provisions of the Anti-Graft and Corrupt Practices Act, and sought a definitive answer to the question. 'What then would happen to the suspension meted out to him since it is the National Assembly that determines whether he should assume and continue in office?'

"All these and other germane questions were brushed aside by the majority of the Court with the sweeping statement that the provisions of the Decentralization Act apply only to administrative cases. It is the ex cathedra attitude, this kind of slothful thinking, that I find abhorrent and therefore deplore." (Oliveros v. Villaluz, 57 SCRA 163, 197-198 [1974])

Petitioner Deloso was elected governor of the Province of Zambales in the January 18, 1988 local elections. The regular term of a governor is only 3 years although he shall serve until noon of June 30, 1992 by special provision of the Constitution. (Section 8, Article X, Section 2, Article XVIII, Constitution). He was, however, ordered suspended from performing his duties as governor by the Sandiganbayan pursuant to Section 13 of Republic Act No. 3019 by virtue of the criminal charges filed against him. The order of suspension does not have a definite period so that the petitioner may be suspended for the rest of his term of office unless his case is terminated sooner. An extended suspension is a distinct possibility considering that the Sandiganbayan denied the petitioner's plea for earlier dates of trial of his cases on the ground that there are other cases set earlier which have a right to expect priority.

Under these circumstances the preventive suspension which initially may be justified becomes unreasonable thus raising a due process question. As we ruled in *Layno, Sr. v. Sandiganbayan*, (supra):

"Petitioner is a duly elected municipal mayor of Lianga, Surigao del Sur. His term of office does not expire until 1986. Were it not for this information and the suspension decreed by the Sandiganbayan according to the Anti-Graft and Corrupt Practices Act, he would have been all this while in the full discharge of his functions as such municipal mayor. He was elected precisely to do so. As of October 26, 1983, he has been unable to. It is a basic assumption of the electoral process implicit in the right of suffrage that the people are entitled to the services of elective officials of their choice. For misfeasance or malfeasance, any of them could, of course, be proceeded against administratively or, as in this instance, criminally. In either case, his culpability must be established. Moreover, if there be a criminal action, he is entitled to the constitutional presumption of innocence. A preventive suspension may be justified. Its continuance, however, for an unreasonable length of time raises a due process question. For even if thereafter he were acquitted, in the meanwhile his right to hold office had been nullified. Clearly, there would be in such a case an injustice suffered by him. Nor is he the only victim. There is injustice inflicted likewise on the people of Lianga. They were deprived of the services of the man they had elected to serve as mayor. In that sense, to paraphrase Justice Cardozo, the protracted continuance of this preventive suspension had outrun the bounds of reason and resulted in sheer oppression. A denial of due process is thus quite manifest. It is to avoid such an unconstitutional application that the order of suspension should be lifted."

Moreover, in the earlier case of *Garcia v. The Executive Secretary*, (6 SCRA 1 [1962]) we ruled on the issue as to whether the preventive suspension beyond the maximum period of 60 days, provided in Section 35 of the Civil Service Act of 1959 (Republic Act 2260) is illegal and void. Paulino Garcia, the petitioner in the cited case was the Chairman of the National Science Development Board appointed by the President of the Philippines. He was charged with electioneering and dishonesty in office. Pending investigation of the administrative charges against him, he was suspended by the Executive Secretary by authority of the President. In view of his indefinite suspension, he filed a petition praying in effect that the 60-day period prescribed in the Civil Service Law for preventive suspension having already expired, he be reinstated in the service pursuant to Section 35 of the said Act. The respondents opposed the petition on the ground that the petitioner was a presidential appointee and therefore not covered by the 60-day preventive suspension limit under Section 35 of the then Civil Service Act. The respondents maintained that the petitioner could be indefinitely suspended. In ruling in favor of the petitioner, the Court stated:

"To adopt the theory of respondents that an officer appointed by the President, facing administrative charges can be preventively suspended indefinitely, would be to countenance a situation where the preventive suspension can, in effect, be the penalty itself without a finding of guilt after due hearing, contrary to the express mandate of the Constitution (No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law. [Art. XII, Sec. 4, Constitution of the Philippines]) and the Civil Service Law (No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law and after due process). x x x In the guise of a preventive suspension, his term of office could be shortened and he could, in effect, be removed without a finding of a cause duly established after due hearing, in violation of the Constitution. x x x." (at pp. 8-9)

The question that now arises is whether or not the ruling in the *Garcia* case where the suspension was ordered by no less than the President of the Philippines is applicable to an elective official facing criminal charges under the Anti-Graft Law and suspended under Section 13 thereof.

The guarantee to an equal protection of the law necessitates the application of the ruling in the *Garcia v. Executive Secretary*. Thus, we explained in the *Layno* case, to wit:

"x x x If the case against petitioner Layno were administrative in character the Local Government Code would

be applicable. It is therein clearly provided that while preventive suspension is allowable for the causes therein enumerated, there is this emphatic limitation on the duration thereof: 'In all cases, preventive suspension shall not extend beyond sixty days after the start of said suspension.' (Batas Pambansa Blg. 337, Section 63 (2), last sentence. The first sentence reads as follows: 'Preventive suspension may be imposed at any time after the issues are joined, when there is reasonable ground to believe that the respondent has committed the act or acts complained of, when the evidence of culpability is strong, when the gravity of the offense so warrants, or when the continuance in office of the respondent influence the witnesses or pose a threat to the safety and integrity of the records and other evidence'). It may be recalled that the principle against indefinite suspension applies equally to national government officials. So it was held in the leading case of *Garcia v. Hon. Secretary* (116 Phil. 348 [1962]). According to the opinion of Justice Barrera: 'To adopt the theory of respondents that an officer appointed by the President, facing administrative charges, can be preventively suspended indefinitely, would be to countenance a situation where the preventive suspension can, in effect, be the penalty itself without a finding of guilt after due hearing, contrary to the express mandate of the Constitution and the Civil Service Law.' (Ibid. 351-352) Further: 'In the guise of a preventive suspension, his term of office could be shortened and he could in effect, be removed without a finding of a cause duly established after due hearing, in violation of the Constitution.' (Ibid. 352) Clearly then, the policy of the law mandated by the Constitution frowns at a suspension of indefinite duration. In this particular case, the mere fact that petitioner is facing a charge under the Anti-Graft and Corrupt Practices Act does not justify a different rule of law. To do so would be to negate the safeguard of the equal protection guarantee." (at p. 542)

The application of the *Garcia* injunction against preventive suspensions for an unreasonable period of time applies with greater force to elective officials and especially to the petitioner whose term is a relatively short one. The interests of the sovereign electorate and the province of Zambales cannot be subordinated to the heavy case load of the Sandiganbayan and of this Court.

It would be most unfair to the people of Zambales who elected the petitioner to the highest provincial office in their command if they are deprived of his services for an indefinite period with the termination of his case possibly extending beyond his entire term simply because the big number of sequestration, ill-gotten, wealth, murder, malversation of public funds and other more serious offenses plus incidents and resolutions that may be brought to the Supreme Court prevents the expedited determination of his innocence or guilt.

The order dated February 10, 1989 suspending the petitioner without a definite period can not be sanctioned. We rule that henceforth a preventive suspension of an elective public officer under Section 13 of Republic Act 3019 should be limited to the ninety (90) days under Section 42 of Presidential Decree No. 807, the Civil Service Decree, which period also appears reasonable and appropriate under the circumstances of this case.

The petitioner also questions the applicability of Section 13 of Republic Act 3019 as amended by Batasan Pambansa Blg. 192 to him. He opines that the suspension provision as amended which qualifies the public officer as incumbent does not apply to him since he is now occupying the position of governor and not mayor, the position wherein he was charged under the Anti-Graft Law.

This argument is untenable. The issue was settled in the case of *Bayot v. Sandiganbayan* (128 SCRA 383 (1984), in this wise:

"x x x Further, the claim of petitioner that he cannot be suspended because he is presently occupying a position different from that under which he is charged is untenable. The amendatory provision clearly states that any incumbent public officer against whom any criminal prosecution under a valid information under Republic Act 3019 or for any offense involving fraud upon the government or public funds or property whether as a simple or as a complex offense and in whatever stage or execution and mode of participation, is pending in court, shall be suspended from office. Thus, by the use of the word 'office' the same applies to any office which the officer charged may be holding, and not only the particular office under which he was charged."

One last point. Should the purposes behind preventive suspensions such as preventing the abuse of the prerogatives of the office, intimidation of witnesses, etc., become manifest, the respondent court is not bereft of remedies or sanctions. The petitioner may still be suspended but for specifically expressed reasons and not from an automatic application of Section 13 of the Anti-Graft and Corrupt Practices Act.

WHEREFORE, the instant petition is GRANTED. The preventive suspension imposed on petitioner Amor D. Deloso by virtue of the February 10, 1989 resolution of the Sandiganbayan should be limited to only ninety (90) days after which Deloso will assume once again the functions of governor of Zambales, without prejudice to the continuation of the trial of the pending cases against him in the Sandiganbayan. This decision is immediately executory. No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Padilla, Bidin, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.
Gancayco and Sarmiento, JJ., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.