

SECOND DIVISION

[G.R. No. 184496, December 02, 2013]

**HADJI HASHIM ABDUL, PETITIONER, VS. HONORABLE
SANDIGANBAYAN (FIFTH DIVISION) AND PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

DECISION

DEL CASTILLO, J.:

"Where the issue has become moot and academic, there is no justiciable controversy, and an adjudication thereof would be of no practical use or value as courts do not sit to satisfy scholarly interest, however intellectually challenging."^[1]

Challenged in the instant Petition for *Certiorari*^[2] with prayer for Temporary Restraining Order (TRO) is the May 14, 2008 Resolution^[3] of respondent *Sandiganbayan* (respondent) in Criminal Case No. 27744. Said Resolution suspended for a period of 90 days petitioner Hadji Hasim Abdul (petitioner), Tan-Alem Abdul (Abdul) and Candidato S. Domado (Domado) from their respective official positions as Municipal Mayor, Human Resource Management Officer, and Budget Officer of the Municipality of Mulondo, Lanao del Sur. Likewise questioned is respondent's Resolution^[4] of September 2, 2008 denying petitioner's Motion for Reconsideration.

The Undisputed Facts

Petitioner was first elected as municipal mayor of Mulondo, Lanao del Sur in the May 1998 election and re-elected for a second term in the May 2001 election. It was while serving his second term as municipal mayor when the Office of the Ombudsman-Mindanao filed an Information on September 5, 2002 charging petitioner, along with Abdul and Domado, with falsification of public documents, defined and penalized under Article 171(2) of the Revised Penal Code (RPC).^[5] The Information^[6] states:

That sometime on 22 April 1999, or prior or subsequent thereto, in the Municipality of Mulondo, Lanao del Sur, and within the jurisdiction of this Honorable Court, the accused HADJI HASHIM ABDUL, being then the Municipal Mayor of the Municipality of Mulondo, Lanao del Sur, a high ranking official, TAN-ALEM ABDUL, being then the Human Resource Management Officer, and CANDIDATO S. DOMADO, being then the Budget Officer, all public officers, taking advantage of their official positions and committing the offense in relation to their office, did then and there willfully, unlawfully and feloniously, conspiring with one another, make it appear that Engr. Zubair F. Murad as Municipal Engineer prepared and signed the Local Budget Preparation Form Nos. 152, 153

and 154 known as the Program Appropriation and Obligation by Object, Personnel Schedule and Functional Statement and General Objective, respectively, when in truth and in fact, as the accused well knew that said Zubair F. Murad was never employed as Municipal Engineer of the said Municipality, to the damage and prejudice of public interest.

CONTRARY TO LAW.^[7]

During the arraignment, petitioner and his co-accused pleaded not guilty to the offense charged.

Before the commencement of the trial, the Office of the Special Prosecutor (OSP) moved for the suspension *pendente lite* of the petitioner and his co-accused as mandated under Section 13 of Republic Act No. 3019 (RA 3019) or the Anti-Graft and Corrupt Practices Act,^[8] 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 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. x x x

The OSP averred that suspension under the above-quoted section is mandatory.

In his Comment,^[9] petitioner asserted that he cannot be suspended *pendente lite* because the crime for which he was charged is not among those enumerated under Section 13 of RA 3019. He was not charged under RA 3019 or Title Seven, Book II of the RPC. Neither does fraud upon government or public funds or property cover falsification of public document nor fraud per se, an ingredient of the offense of falsification of public document.

Finding the charge as squarely falling within the ambit of Section 13, RA 3019, respondent granted in its Resolution^[10] of October 9, 2003 the OSP's motion and accordingly ordered the suspension *pendente lite* of the petitioner and his co-accused from their respective positions and from any other public office which they may now or hereafter be holding for a period of 90 days from notice.

Petitioner moved for reconsideration,^[11] but the same was denied in a Resolution^[12] dated February 11, 2004. Thus, on March 2, 2004 he filed with this Court a Petition for *Certiorari* with Prayer for TRO^[13] alleging that the suspension order was issued with grave abuse of discretion amounting to lack of jurisdiction. In a Resolution^[14] dated March 10, 2004, the Court dismissed the Petition, which dismissal attained finality on July 12, 2004.^[15] The suspension order, however, was no longer implemented because it was superseded by the expiration of petitioner's second term as municipal mayor and his unsuccessful bid for re-election during the May 2004 election.

During the May 2007 election, petitioner emerged as the winner in the mayoralty race and again sat as Mayor of Mulondo, Lanao del Sur. On February 21, 2008, the

OSP once again moved for his and his co-accused's suspension *pendente lite* to implement respondent's final and executory suspension order of October 9, 2003. [16] In his Comment and Opposition, [17] petitioner called attention to respondent's pronouncement in its Resolution [18] dated December 20, 2004 that his defeat in the May 2004 election has effectively rendered his suspension moot and academic. Nonetheless, respondent, through its Resolution of May 14, 2008, [19] ordered anew the suspension of petitioner from his present position for a period of 90 days. Petitioner moved for reconsideration, [20] but the same was denied in a Resolution [21] dated September 2, 2008.

Undeterred, petitioner filed on October 2, 2008 the present Petition for Certiorari with prayer for TRO submitting again the sole issue of whether the *Sandiganbayan* acted with grave abuse of discretion amounting to lack or excess of jurisdiction in suspending him *pendente lite* from his position as mayor of Mulondo, Lanao del Sur.

On December 3, 2008, the Court issued a TRO enjoining the implementation of the suspension Order. [22] Subsequently, on November 24, 2009 while the present Petition was pending before the Court, respondent *Sandiganbayan* promulgated its Decision [23] acquitting petitioner and his co-accused of the offense charged.

Our Ruling

We dismiss the Petition for being moot and academic.

For a court to exercise its power of adjudication, there must be an actual case or controversy. Thus, in *Mattel, Inc. v. Francisco* [24] we have ruled that "[w]here the issue has become moot and academic, there is no justiciable controversy, and an adjudication thereof would be of no practical use or value as courts do not sit to adjudicate mere academic questions to satisfy scholarly interest however intellectually challenging." In the present case, the acquittal of herein petitioner operates as a supervening event that mooted the present Petition. Any resolution on the validity or invalidity of the issuance of the order of suspension could no longer affect his rights as a ranking public officer, for legally speaking he did not commit the offense charged.

Notwithstanding the mootness of the present Petition, petitioner nevertheless implores us to make a clear and categorical resolution on whether the offense of falsification of public documents under Article 171 of the RPC is included in the term "fraud" as contemplated under Section 13 of RA 3019.

As earlier quoted, to warrant the suspension of a public officer under the

said Section 13, he must be charged with an offense (1) under RA 3019, or (2) under Title Seven, Book II of the RPC, or (3) involving fraud upon government or public funds or property. Admittedly, petitioner in this case was not charged under RA 3019. Neither was he charged under Title Seven, [25] Book II of the RPC as the crime of falsification of public documents under Article 171 of the RPC is covered by Title Four, [26] Book II thereof. The relevant question now is whether falsification of public documents is considered as fraud upon government or public funds or property.