

STANDARD CHARTERED BANK (PHILIPPINE BRANCH), PAUL SIMON MORRIS, SUNDARA RAMESH, OWEN BELMAN, SANJAY AGGARWAL, RAJAMANI CHANDRASHEKAR, MARIVEL GONZALES, MA. ELLEN VICTOR, CHONA G...*G.R. No. 167173. December 27, 2007*

Ponente: NACHURA, J.

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Before us is a Petition for Prohibition (With Prayer for Issuance of Temporary Restraining Order and/or Injunction) dated and filed on March 11, 2005 by petitioners against respondent Senate Committee on Banks, Financial Institutions and Currencies, as represented by its Chairperson Edgardo J. Angara (respondent).

Petitioner Standard Chartered Bank (SCB)-Philippines is an institution incorporated in England with limited liability and is licensed to engage in banking, trust, and other related operations in the Philippines. Petitioners Paul Simon Morris, Sundara Ramesh, Owen Belman, Sanjay Aggarwal, Rajamani Chandrashekar, Marivel Gonzales, Ma. Ellen Victor, Chona G. Reyes, Zenaida Iglesias, Ramona Bernad, Michaelangelo Aguilar, and Fernand Tansingco are the Chief Executive Officer, Chief Operations Officer, Country Head of Consumer Banking, General Manager for Credit Card and Personal Loans, Chief Financial Officer, Legal and Compliance Officer, former Trust and Investment Services Head, Country Tax Officer, Head of Corporate Affairs, Head of Banking Services, Head of Client Relationships, and the Head of Global Markets of SCB-Philippines, respectively. Respondent, on the other hand, is one of the permanent committees of the Senate of the Philippines.

The petition seeks the issuance of a temporary restraining order (TRO) to enjoin respondent from (1) proceeding with its inquiry pursuant to Philippine Senate (P.S.) Resolution No. 166; (2) compelling petitioners who are officers of petitioner SCB-Philippines to attend and testify before any further hearing to be conducted by respondent, particularly that set on March 15, 2005; and (3) enforcing any hold-departure order (HDO) and/or putting the petitioners on the Watch List. It also prays that judgment be rendered (1) annulling the subpoenae ad testificandum and duces tecum issued to petitioners, and (2) prohibiting the respondent from compelling petitioners to appear and testify in the inquiry being conducted pursuant to P.S. Resolution No. 166.

The facts are as follows:

On February 1, 2005, Senator Juan Ponce Enrile, Vice Chairperson of respondent, delivered a privilege speech entitled “Arrogance of Wealth”^[1] before the Senate based on a letter from Atty. Mark R. Bocobo denouncing SCB-Philippines for selling unregistered foreign securities in violation of the Securities Regulation Code (R.A. No. 8799) and urging the Senate to immediately conduct an inquiry, in aid of legislation, to prevent the occurrence of a similar fraudulent activity in the future. Upon motion of Senator Francis Pangilinan, the speech was referred to respondent. Prior to the privilege speech, Senator Enrile had introduced P.S. Resolution No. 166,^[2] to wit:

RESOLUTION

DIRECTING THE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES, TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ILLEGAL SALE OF UNREGISTERED AND HIGH-RISK SECURITIES BY STANDARD CHARTERED BANK, WHICH RESULTED IN BILLIONS OF PESOS OF LOSSES TO THE INVESTING PUBLIC

WHEREAS, Republic Act No. 7721, otherwise known as the "Law Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines," was approved on May 18, 1994 to promote greater participation of foreign banks in the Philippine Banking Industry that will stimulate economic growth and serve as a channel for the flow of funds into the economy;

WHEREAS, to promote greater competition in the Philippine Banking Industry, foreign banks were accorded the same privileges, allowed to perform the same functions and subjected to the same limitations under relevant banking laws imposed upon domestic banks;

WHEREAS, Standard Chartered Bank was among the foreign banks granted the privilege to do business in our country under Republic Act No. 7721;

WHEREAS, there are complaints against Standard Chartered Bank whose actions have reportedly defrauded hundreds of Filipino investors of billions of pesos through the sale of unregistered securities in the form of high-risk mutual funds falsely advertised and marketed as safe investment havens;

WHEREAS, there are reports that Standard Chartered Bank clearly knew that its actions were violative of Philippine banking and securities laws but cleverly disguised its illegal acts through the use of pro-forma agreements containing waivers of liability in favor of the bank;

WHEREAS, there are reports that in the early stages of conducting these questionable activities, the Bangko Sentral ng Pilipinas warned and eventually fined Standard Chartered Bank a measly P30,000 for violating Philippine banking laws;

WHEREAS, the particular operations of Standard Chartered Bank may constitute "conducting business in an unsafe and unsound manner," punishable under Section 37 of Republic Act No. 7653 and should have drawn the higher penalty of revocation of its quasi-banking license;

WHEREAS, Republic Act No. 8791 or the "General Banking Act of 2000" deems a particular act or omission as conducting business in an unsafe and unsound manner as follows:

"Section 56.2 The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders or to the Bangko Sentral or to the public in general."

WHEREAS, the sale of unregistered securities is also a clear violation of Republic Act No. 8799 or "The Securities Regulation Code of 2000" which states:

"Section 8.1 Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser."

WHEREAS, the Securities and Exchange Commission (SEC) reportedly issued a Cease-and-Desist Order (CDO) against Standard Chartered Bank for the sale of these unregistered securities but the case was reportedly settled administratively and dismissed after Standard Chartered Bank paid a fine of P7 Million;

WHEREAS, the SEC reportedly made an official finding that Standard Chartered Bank actively engaged in promoting and marketing the so-called "Global Third Party Mutual Funds" to the investing public and even set

revenue quotas for the sale of these funds;

WHEREAS, existing laws including the Securities Regulation Code seem to be inadequate in preventing the sale of unregistered securities and in effectively enforcing the registration rules intended to protect the investing public from fraudulent practices;

WHEREAS, the regulatory intervention by the SEC and BSP likewise appears inadequate in preventing the conduct of proscribed activities in a manner that would protect the investing public;

WHEREAS, there is a need for remedial legislation to address the situation, having in mind the imposition of proportionate penalties to offending entities and their directors, officers and representatives among other additional regulatory measures;

Now, therefore, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the Committee on Banks, Currencies, and Financial Institutions, to conduct an inquiry, in aid of legislation, into the reported sale of unregistered and high-risk securities by Standard Chartered Bank which resulted in billions of losses to the investing public.

Acting on the referral, respondent, through its Chairperson, Senator Edgardo J. Angara, set the initial hearing on February 28, 2005 to investigate, in aid of legislation, the subject matter of the speech and resolution filed by Senator Enrile.

Respondent invited petitioners, among others, to attend the hearing, requesting them to submit their written position paper. Petitioners, through counsel, submitted to respondent a letter[3] dated February 24, 2005 presenting their position, particularly stressing that there were cases pending in court allegedly involving the same issues subject of the legislative inquiry, thereby posing a challenge to the jurisdiction of respondent to continue with the inquiry.

On February 28, 2005, respondent commenced the investigation. Senator Enrile inquired who among those invited as resource persons were present and who were absent. Thereafter, Senator Enrile moved that subpoenae be issued to those who did not attend the hearing and that the Senate request the Department of Justice, through the Bureau of Immigration and Deportation, to issue an HDO against them and/or include them in the Bureau's Watch List. Senator Juan Flavio Velasco seconded the motion and the motion was approved.

Respondent then proceeded with the investigation proper. Towards the end of the hearing, petitioners, through counsel, made an Opening Statement[4] that brought to the attention of respondent the lack of proper authorization from affected clients for the bank to make disclosures of their accounts and the lack of copies of the accusing documents mentioned in Senator Enrile's privilege speech, and reiterated that there were pending court cases regarding the alleged sale in the Philippines by SCB-Philippines of unregistered foreign securities.

The February 28, 2005 hearing was adjourned without the setting of the next hearing date. However, petitioners were later served by respondent with subpoenae ad testificandum and duces tecum to compel them to attend and testify at the hearing set on March 15, 2005. Hence, this petition.

The grounds relied upon by petitioners are as follows:

I.

THE COMMITTEE ACTED WITHOUT JURISDICTION AND/OR ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN CONDUCTING AN INVESTIGATION, PURPORTEDLY IN AID OF LEGISLATION, BUT IN REALITY PROBING INTO THE ISSUE OF WHETHER THE STANDARD CHARTERED BANK HAD SOLD UNREGISTERED FOREIGN

SECURITIES IN THE PHILIPPINES. SAID ISSUE HAS LONG BEEN THE SUBJECT OF CRIMINAL AND CIVIL ACTIONS NOW PENDING BEFORE THE COURT OF APPEALS, REGIONAL TRIAL COURT OF PASIG CITY, METROPOLITAN TRIAL COURT OF MAKATI CITY AND THE PROSECUTOR'S OFFICE OF MAKATI CITY.

II.

THE COMMITTEE ACTED IN GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION BY CONDUCTING AN INVESTIGATION, PURPORTEDLY "IN AID OF LEGISLATION," BUT IN REALITY IN "AID OF COLLECTION" BY A HANDFUL OF TWO (2) CLIENTS OF STANDARD CHARTERED BANK OF LOSSES WHICH WERE FOR THEIR ACCOUNT AND RISK. AT ANY RATE, SUCH COLLECTION IS WITHIN THE PROVINCE OF THE COURT RATHER THAN OF THE LEGISLATURE.

III.

THE COMMITTEE ACTED WITHOUT JURISDICTION AND/OR ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN COMPELLING PETITIONERS, SOME OF WHOM ARE RESPONDENTS IN THE PENDING CRIMINAL AND CIVIL ACTIONS BROUGHT BY SAID CLIENTS, IN VIOLATION OF PETITIONERS' RIGHT AGAINST SELF-INCRIMINATION AND RIGHT TO PURSUE AND DEFEND THEIR CAUSE IN COURT RATHER THAN ENGAGE IN TRIAL BY PUBLICITY – A CLEAR VIOLATION OF DUE PROCESS, RIGHT TO PRIVACY AND TO TRAVEL.

IV.

THE COMMITTEE ACTED IN GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION BY DISREGARDING ITS OWN RULES.[5]

Petitioners argue that respondent has no jurisdiction to conduct the inquiry because its subject matter is the very same subject matter of the following cases, to wit:

(a) CA-G.R. SP No. 85078, entitled "Manuel V. Baviera vs. Hon. Esperanza P. Rosario, et al., pending before the 9[th] Division of the Court of Appeals. In the petition, Mr. Baviera seeks to annul and set aside the dismissal by the Department of Justice of his complaint against Standard Chartered Bank and its officers accusing them of SELLING UNREGISTERED FOREIGN SECURITIES IN VIOLATION OF P.D. NO. 1869 (SYNDICATED ESTAFA) AND ARTICLE 315 OF THE REVISED PENAL CODE.

(b) CA-G.R. SP No. 86200, entitled "Manuel V. Baviera vs. Hon. Rafael Buenaventura, et al.," pending before the 15[th] Division of the Court of Appeals. In the petition, Mr. Baviera seeks to annul and set aside the termination for lack of probable cause by the Anti-Money Laundering Council ("AMLC") of the investigation of Standard Chartered Bank for money laundering activities BY SELLING UNREGISTERED FOREIGN SECURITIES.

(c) CA-G.R. SP No. 87328, entitled "Manuel V. Baviera vs. Hon. Esperanza Paglinawan Rozario, et al.," pending before the 16[th] Division of the Court of Appeals. The petition seeks to annul and set aside the dismissal by the Department of Justice of Mr. Baviera's complaint accusing SCB and its officers of violation of the Securities Regulation Code by SELLING UNREGISTERED FOREIGN SECURITIES.

(d) Civil Case No. 70173, entitled "Mr. Noel G. Sanchez, et al. vs. Standard Chartered Bank," pending before Branch 155 of the Regional Trial Court of Pasig City. Plaintiff seeks damages and recovery of their investment accusing the bank of SELLING UNREGISTERED FOREIGN SECURITIES.

(e) Criminal Case No. 332034, entitled "People of the Philippines vs. Manuel V. Baviera," pending before Branch 64 of the Metropolitan Trial Court of Makati City. Petitioner Morris is the private complainant in this

information for extortion or blackmail against Mr. Baviera for demanding the payment of US\$2 Million with the threat to EXPOSE THE BANK'S "LARGE SCALE SCAM" CONSISTING [OF] ILLEGAL SELLING OF UNREGISTERED FOREIGN SECURITIES BY THE BANK, before various government offices, such as the Department of Justice, the BIR, Bangko Sentral ng Pilipinas, Regional Trial Courts, and both houses of Congress.

(f) Criminal Case No. 331395, entitled "People of the Philippines vs. Manuel V. Baviera," pending before Branch 64 of the Metropolitan Trial Court of Makati City. Petitioners Victor and Chona Reyes are the private complainants in this information for perjury committed by Mr. Baviera in securing a hold departure order against the petitioners herein from the Department of Justice for their alleged involvement in syndicated estafa and swindling BY SELLING UNREGISTERED FOREIGN SECURITIES.

(g) I.S. No. 2004-B-2279-80, entitled "Aurelio Litonjua III and Aurelio Litonjua, Jr. vs. Antonette de los Reyes, et al.," pending before the Office of the Prosecutor, Makati City. This is a criminal complaint accusing SCB and its officers of estafa for SELLING UNREGISTERED FOREIGN SECURITIES.[6]

Citing *Bengzon, Jr. v. Senate Blue Ribbon Committee*,^[7] the petitioners claim that since the issue of whether or not SCB-Philippines illegally sold unregistered foreign securities is already preempted by the courts that took cognizance of the foregoing cases, the respondent, by this investigation, would encroach upon the judicial powers vested solely in these courts.

The argument is misplaced. *Bengzon* does not apply squarely to petitioners' case.

It is true that in *Bengzon*, the Court declared that the issue to be investigated was one over which jurisdiction had already been acquired by the Sandiganbayan, and to allow the [Senate Blue Ribbon] Committee to investigate the matter would create the possibility of conflicting judgments; and that the inquiry into the same justiciable controversy would be an encroachment on the exclusive domain of judicial jurisdiction that had set in much earlier.

To the extent that, in the case at bench, there are a number of cases already pending in various courts and administrative bodies involving the petitioners, relative to the alleged sale of unregistered foreign securities, there is a resemblance between this case and *Bengzon*. However, the similarity ends there.

Central to the Court's ruling in *Bengzon* -- that the Senate Blue Ribbon Committee was without any constitutional mooring to conduct the legislative investigation -- was the Court's determination that the intended inquiry was not in aid of legislation. The Court found that the speech of Senator Enrile, which sought such investigation contained no suggestion of any contemplated legislation; it merely called upon the Senate to look into possible violations of Section 5, Republic Act No. 3019. Thus, the Court held that the requested probe failed to comply with a fundamental requirement of Section 21, Article VI of the Constitution, which states:

The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected.

Accordingly, we stopped the Senate Blue Ribbon Committee from proceeding with the legislative investigation in that case.

Unfortunately for the petitioners, this distinguishing factual milieu in *Bengzon* does not obtain in the instant case. P.S. Resolution No. 166 is explicit on the subject and nature of the inquiry to be (and already being) conducted by the respondent Committee, as found in the last three Whereas clauses thereof, viz.:

WHEREAS, existing laws including the Securities Regulation Code seem to be inadequate in preventing the

sale of unregistered securities and in effectively enforcing the registration rules intended to protect the investing public from fraudulent practices;

WHEREAS, the regulatory intervention by the SEC and BSP likewise appears inadequate in preventing the conduct of proscribed activities in a manner that would protect the investing public;

WHEREAS, there is a need for remedial legislation to address the situation, having in mind the imposition of proportionate penalties to offending entities and their directors, officers and representatives among other additional regulatory measures; (emphasis supplied)

The unmistakable objective of the investigation, as set forth in the said resolution, exposes the error in petitioners' allegation that the inquiry, as initiated in a privilege speech by the very same Senator Enrile, was simply "to denounce the illegal practice committed by a foreign bank in selling unregistered foreign securities x x x." This fallacy is made more glaring when we consider that, at the conclusion of his privilege speech, Senator Enrile urged the Senate "to immediately conduct an inquiry, in aid of legislation, so as to prevent the occurrence of a similar fraudulent activity in the future."

Indeed, the mere filing of a criminal or an administrative complaint before a court or a quasi-judicial body should not automatically bar the conduct of legislative investigation. Otherwise, it would be extremely easy to subvert any intended inquiry by Congress through the convenient ploy of instituting a criminal or an administrative complaint. Surely, the exercise of sovereign legislative authority, of which the power of legislative inquiry is an essential component, cannot be made subordinate to a criminal or an administrative investigation.

As succinctly stated in the landmark case *Arnault v. Nazareno*[8] –

[T]he power of inquiry – with process to enforce it – is an essential and appropriate auxiliary to the legislative function. A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information – which is not infrequently true – recourse must be had to others who possess it.

Neither can the petitioners claim that they were singled out by the respondent Committee. The Court notes that among those invited as resource persons were officials of the Securities and Exchange Commission (SEC) and the Bangko Sentral ng Pilipinas (BSP). These officials were subjected to the same critical scrutiny by the respondent relative to their separate findings on the illegal sale of unregistered foreign securities by SCB-Philippines. It is obvious that the objective of the investigation was the quest for remedies, in terms of legislation, to prevent the recurrence of the allegedly fraudulent activity.

Still, petitioners insist that the inquiry conducted by respondent was, in fact, "in aid of collection." They claim that Atty. Bocobo and Manuel Baviera, the latter a party to the pending court cases cited by petitioners, were only seeking a friendly forum so that they could recover their investments from SCB-Philippines; and that the respondent has allowed itself to be used as the conveniently available vehicle to effect this purpose.

However, as correctly pointed out by respondent in its Comment on the petition, Atty. Bocobo did not file a complaint before the Senate for the purpose of recovering his investment. On the contrary, and as confirmed during the initial hearing on February 28, 2005, his letter-complaint humbly requested the Senate to conduct an inquiry into the purportedly illegal activities of SCB-Philippines, with the end view of preventing the future occurrence of any similar fraudulent activity by the banks in general.[9] Baviera, on the other hand, was not a "complainant" but merely a witness in the investigation, invited to testify on the alleged illegal sale of unregistered foreign securities by SCB-Philippines, being one of the supposed victims thereof.

The Court further notes that when it denied petitioners' prayer for the issuance of a TRO to restrain the hearing set on March 15, 2005,[10] respondent proceeded with the investigation. On the said date, outraged by petitioners' imputation that it was conducting the investigation "in aid of collection," respondent held petitioners, together with their counsel, Atty. Reynaldo Geronimo, in contempt and ordered their detention for six hours.

Petitioners filed a Motion for Partial Reconsideration of this Court's Resolution dated March 14, 2005 only with respect to the denial of the prayer for the issuance of a TRO and/or writ of preliminary injunction, alleging that their being held in contempt was without legal basis, as the phrase "in aid of collection" partakes of an absolutely privileged allegation in the petition.

We do not agree. The Court has already expounded on the essence of the contempt power of Congress and its committees in this wise –

The principle that Congress or any of its bodies has the power to punish recalcitrant witnesses is founded upon reason and policy. Said power must be considered implied or incidental to the exercise of legislative power. How could a legislative body obtain the knowledge and information on which to base intended legislation if it cannot require and compel the disclosure of such knowledge and information, if it is impotent to punish a defiance of its power and authority? When the framers of the Constitution adopted the principle of separation of powers, making each branch supreme within the realm of its respective authority, it must have intended each department's authority to be full and complete, independently of each other's authority or power. And how could the authority and power become complete if for every act of refusal, every act of defiance, every act of contumacy against it, the legislative body must resort to the judicial department for the appropriate remedy, because it is impotent by itself to punish or deal therewith, with affronts committed against its authority or dignity.[11]

The exercise by Congress or by any of its committees of the power to punish contempt is based on the principle of self- preservation. As the branch of the government vested with the legislative power, independently of the judicial branch, it can assert its authority and punish contumacious acts against it. Such power is sui generis, as it attaches not to the discharge of legislative functions per se, but to the sovereign character of the legislature as one of the three independent and coordinate branches of government.[12]

In this case, petitioners' imputation that the investigation was "in aid of collection" is a direct challenge against the authority of the Senate Committee, as it ascribes ill motive to the latter. In this light, we find the contempt citation against the petitioners reasonable and justified.

Furthermore, it is axiomatic that the power of legislative investigation includes the power to compel the attendance of witnesses. Corollary to the power to compel the attendance of witnesses is the power to ensure that said witnesses would be available to testify in the legislative investigation. In the case at bench, considering that most of the officers of SCB- Philippines are not Filipino nationals who may easily evade the compulsive character of respondent's summons by leaving the country, it was reasonable for the respondent to request the assistance of the Bureau of Immigration and Deportation to prevent said witnesses from evading the inquiry and defeating its purpose. In any event, no HDO was issued by a court. The BID instead included them only in the Watch List, which had the effect of merely delaying petitioners' intended travel abroad for five (5) days, provided no HDO is issued against them.[13]

With respect to the right of privacy which petitioners claim respondent has violated, suffice it to state that privacy is not an absolute right. While it is true that Section 21, Article VI of the Constitution, guarantees respect for the rights of persons affected by the legislative investigation, not every invocation of the right to privacy should be allowed to thwart a legitimate congressional inquiry. In *Sabio v. Gordon*,[14] we have held that the right of the people to access information on matters of public concern generally prevails over the right to privacy of ordinary

financial transactions. In that case, we declared that the right to privacy is not absolute where there is an overriding compelling state interest. Employing the rational basis relationship test, as laid down in *Morfe v. Mutuc*, [15] there is no infringement of the individual's right to privacy as the requirement to disclosure information is for a valid purpose, in this case, to ensure that the government agencies involved in regulating banking transactions adequately protect the public who invest in foreign securities. Suffice it to state that this purpose constitutes a reason compelling enough to proceed with the assailed legislative investigation.[16]

As regards the issue of self-incrimination, the petitioners, officers of SCB-Philippines, are not being indicted as accused in a criminal proceeding. They were summoned by respondent merely as resource persons, or as witnesses, in a legislative inquiry. As distinguished by this Court –

[An] accused occupies a different tier of protection from an ordinary witness. Whereas an ordinary witness may be compelled to take the witness stand and claim the privilege as each question requiring an incriminating answer is shot at him, an accused may altogether refuse to take the witness stand and refuse to answer any and all questions.[17]

Concededly, this right of the accused against self-incrimination is extended to respondents in administrative investigations that partake of the nature of or are analogous to criminal proceedings. The privilege has consistently been held to extend to all proceedings sanctioned by law; and to all cases in which punishment is sought to be visited upon a witness, whether a party or not.[18]

However, in this case, petitioners neither stand as accused in a criminal case nor will they be subjected by the respondent to any penalty by reason of their testimonies. Hence, they cannot altogether decline appearing before respondent, although they may invoke the privilege when a question calling for an incriminating answer is propounded.[19]

Petitioners' argument, that the investigation before respondent may result in a recommendation for their prosecution by the appropriate government agencies, such as the Department of Justice or the Office of the Ombudsman, does not persuade.

As held in *Sinclair v. United States*[20] --

It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its Committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits. x x x It is plain that investigation of the matters involved in suits brought or to be commenced under the Senate resolution directing the institution of suits for the cancellation of the leases might directly aid in respect of legislative action.

The prosecution of offenders by the prosecutorial agencies and the trial before the courts is for the punishment of persons who transgress the law. The intent of legislative inquiries, on the other hand, is to arrive at a policy determination, which may or may not be enacted into law.

Except only when it exercises the power to punish for contempt, the respondent, as with the other Committees of the Senate or of the House of Representatives, cannot penalize violators even if there is overwhelming evidence of criminal culpability. Other than proposing or initiating amendatory or remedial legislation, respondent can only recommend measures to address or remedy whatever irregularities may be unearthed during the investigation, although it may include in its Report a recommendation for the criminal indictment of persons who may appear liable. At best, the recommendation, along with the evidence, contained in such a Report would be persuasive, but it is still up to the prosecutorial agencies and the courts to determine the liabilities of the offender.

Finally, petitioners sought anew, in their Manifestation and Motion[21] dated June 21, 2006, the issuance by this Court of a TRO and/or writ of preliminary injunction to prevent respondent from submitting its Committee Report No. 75 to the Senate in plenary for approval. However, 16 days prior to the filing of the Manifestation and Motion, or on June 5, 2006, respondent had already submitted the report to the Senate in plenary. While there is no showing that the said report has been approved by the Senate, the subject of the Manifestation and Motion has inescapably become moot and academic.

WHEREFORE, the Petition for Prohibition is DENIED for lack of merit. The Manifestation and Motion dated June 21, 2006 is, likewise, DENIED for being moot and academic.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., and Reyes, JJ., concur.

Quisumbing, J., On leave.

Leonardo-De Castro, J., No part.

[1] Rollo, pp. 63-72.

[2] Id. at 59-60.

[3] Id. at 73-83.

[4] Id. at 86-90.

[5] Id. at 15-16.

[6] Id. at 18-19.

[7] G.R. No. 89914, November 20, 1991, 203 SCRA 767, 784.

[8] 87 Phil. 29, 45 (1950), citing *McGrain v. Daugherty*, 273 U.S. 135; 71 L. ed. 580, 50 A.L.R. 1 [1927].

[9] Rollo, p. 1064.

[10] Per the Resolution dated March 14, 2005.

[11] *Negros Oriental II Electric Cooperative, Inc. v. Sangguniang Panlungsod of Dumaguete*, No. L-72492, November 5, 1987, 155 SCRA 421, 429, citing *Arnault v. Balagtas*, 97 Phil. 358, 370 (1955).

[12] Id. at 430.

[13] Under the BID's Rules and Guideline In Handling Travelers Under Watchlist (November 19, 1999):

- A passenger whose name is in the Bureau's Watchlist shall be allowed to depart after the lapse of five (5) days from his first attempt, provided no Hold Departure Order is issued;

- The head Supervisor and/or Alien Control Officer shall immediately notify the requesting person/agency of the attempt to leave by the person whose name appears in the watchlist and the said requesting person/agency has only five (5) days to secure a Hold Departure Order (HDO) from the Department of Justice or the Courts; otherwise, after five (5) days and there is no HDO issued, the passenger shall be allowed to leave.

[14] G.R. Nos. 174340, 174318, 174177, October 16, 2006, 504 SCRA 704.

[15] No. L-20387, January 31, 1968, 22 SCRA 424, citing *Whalen v. Roe*, 429 U.S. 589 (1977).

[16] *Supra* note 14 at 738.

[17] *Chavez v. Court of Appeals*, 133 Phil. 661, 679 (1968).

[18] *Bengzon, Jr. v. Senate Blue Ribbon Committee*, *supra* note 7, at 786, citing *Galman v. Pamaran*, 138 SCRA 294 (1985).

[19] Senate Rules of Procedure Governing Inquiries in Aid of Legislation, Sec. 19.

[20] 279 U.S. 263, 73 L ed. 692, 698 (1928).

[21] *Rollo*, pp. 1152-1177.

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