

**REGHIS M. ROMERO II, EDMOND Q. SESE, LEOPOLDO T. SANCHEZ,
REGHIS M. ROMERO III, MICHAEL L. ROMERO NATHANIEL L.
ROMERO, AND JEROME R. CANLAS, PETITIONERS, VS. SENATOR
JINGGOY E. ...**

G.R. No. 174105. April 02, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

At issue once again is Section 21, Article VI of the 1987 Constitution which provides:

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.

The Case

This is a petition for prohibition with application for temporary restraining order (TRO) and preliminary injunction under Rule 65, assailing the constitutionality of the invitations and other compulsory processes issued by the Senate Committee on Labor, Employment, and Human Resources Development (Committee) in connection with its investigation on the investment of Overseas Workers Welfare Administration (OWWA) funds in the Smokey Mountain project.

The Facts

On August 15, 2006, petitioner Reghis Romero II, as owner of R-II Builders, Inc., received from the Committee an invitation,[1] signed by the Legislative Committee Secretary, which pertinently reads as follows:

Dear Mr. Romero:

Pursuant to P.S. Resolution No. 537, entitled: "RESOLUTION DIRECTING THE LABOR COMMITTEE TO INVESTIGATE, IN AID OF LEGISLATION, THE LIABILITY FOR PLUNDER OF THE FORMER PRESIDENT RAMOS AND OTHERS, FOR THE ILLEGAL INVESTMENT OF OWWA FUNDS IN THE SMOKEY MOUNTAIN PROJECT, CAUSING A LOSS TO OWWA OF P550.86 MILLION" and P.S. Resolution No. 543, entitled: "RESOLUTION DIRECTING THE COMMITTEE ON LABOR AND EMPLOYMENT, IN ITS ONGOING INQUIRY IN AID OF LEGISLATION, ON THE ALLEGED OWWA LOSS OF P480 MILLION TO FOCUS ON THE CULPABILITY OF THEN PRESIDENT FIDEL RAMOS, THEN OWWA ADMINISTRATOR WILHELM SORIANO, AND R-II BUILDERS OWNER REGHIS ROMERO II," x x x the Committee on Labor, Employment and Human Resources Development chaired by Sen. Jinggoy Ejercito Estrada will conduct a public hearing at 1:00 p.m. on the 23[rd] day of August 2006 at the Sen. G.T. Pecson Room, 2[nd] floor, Senate of the Philippines, Pasay City.

The inquiry/investigation is specifically intended to aid the Senate in the review and possible amendments to the pertinent provisions of R.A. 8042, "the Migrant Workers Act" and to craft a much needed legislation

relative to the stated subject matter and purpose of the aforementioned Resolutions.

By virtue of the power vested in Congress by Section 21, Article VI of 1987 Constitution regarding inquiries in aid of legislation, may we have the privilege of inviting you to the said hearing to shed light on any matter, within your knowledge and competence, covered by the subject matter and purpose of the inquiry. Rest assured that your rights, when properly invoked and not unfounded, will be duly respected. (Emphasis in the original.)

In his letter-reply^[2] dated August 18, 2006, petitioner Romero II requested to be excused from appearing and testifying before the Committee at its scheduled hearings of the subject matter and purpose of Philippine Senate (PS) Resolution Nos. 537 and 543. He predicated his request on grounds he would later substantially reiterate in this petition for prohibition.

On August 28, 2006, the Committee sent petitioner Romero II a letter informing him that his request, being unmeritorious, was denied.^[3] On the same date, invitations were sent to each of the other six petitioners, then members of the Board of Directors of R-II Builders, Inc., requesting them to attend the September 4, 2006 Committee hearing. The following day, Senator Jinggoy Estrada, as Chairperson of the Committee, caused the service of a subpoena ad testificandum^[4] on petitioner Romero II directing him to appear and testify before the Committee at its hearing on September 4, 2006 relative to the aforesaid Senate resolutions. The Committer later issued separate subpoenas^[5] to other petitioners, albeit for a different hearing date.

On August 30, 2006, petitioners filed the instant petition, docketed as G.R. No. 174105, seeking to bar the Committee from continuing with its inquiry and to enjoin it from compelling petitioners to appear before it pursuant to the invitations thus issued.

Failing to secure the desired TRO sought in the petition, petitioner Romero II appeared at the September 4, 2006 Committee investigation.

Two days after, petitioner Romero II filed a Manifestation with Urgent Plea for a TRO^[6] alleging, among others, that: (1) he answered questions concerning the investments of OWWA funds in the Smokey Mountain project and how much of OWWA's original investment had already been paid; (2) when Senator Estrada called on Atty. Francisco I. Chavez, as resource person, the latter spoke of the facts and issues he raised with the Court in *Chavez v. National Housing Authority*,^[7] none of which were related to the subject of the inquiry; and (3) when Senator Estrada adjourned the investigation, he asked petitioners Romero II and Canlas to return at the resumption of the investigation.

The manifestation was followed by the filing on September 19, 2006 of another urgent motion for a TRO in which petitioners imputed to the Committee the intention to harass them as, except for petitioner Romero II, none of them had even been mentioned in relation to the subject of the investigation.

Meanwhile, respondents, in compliance with our September 5, 2006 Resolution that ordered them to submit a comment on the original plea for a TRO, interposed an opposition,^[8] observing that the Senate's motives in calling for an investigation in aid of legislation were a political question. They also averred that the pendency of Chavez "is not sufficient ground to divest the respondents of their jurisdiction to conduct an inquiry into the matters alleged in the petition."

In this petition, petitioners in gist claim that: (1) the subject matter of the investigation is sub judice owing to the pendency of the Chavez petition; (2) since the investigation has been intended to ascertain petitioners' criminal liability for plunder, it is not in aid of legislation; (3) the inquiry compelled them to appear and testify in violation of their rights against self-incrimination; and (4) unless the Court immediately issues a TRO, some or all of petitioners would be in danger of being arrested, detained, and forced to give testimony against their will, before

the Court could resolve the issues raised in G.R. No. 164527.

In their Comment dated October 17, 2006,[9] respondents made a distinction between the issues raised in Chavez and the subject matter of the Senate resolutions, nixing the notion of sub judice that petitioners raised at every possible turn. Respondents averred that the subject matter of the investigation focused on the alleged dissipation of OWWA funds and the purpose of the probe was to aid the Senate determine the propriety of amending Republic Act No. 8042 or The Migrant Workers Act of 1995 and enacting laws to protect OWWA funds in the future. They likewise raised the following main arguments: (1) the proposed resolutions were a proper subject of legislative inquiry; and (2) petitioners' right against self-incrimination was well-protected and could be invoked when incriminating questions were propounded.

On December 28, 2006, petitioners filed their Reply[10] reiterating the arguments stated in their petition, first and foremost of which is: Whether or not the subject matter of the Committee's inquiry is sub judice.

The Court's Ruling

The Court resolves to dismiss the instant petition.

The Subject Matter of the Senate Inquiry Is no Longer Sub Judice

Petitioners contend that the subject matter of the legislative inquiry is sub judice in view of the Chavez petition.

The sub judice rule restricts comments and disclosures pertaining to judicial proceedings to avoid prejudging the issue, influencing the court, or obstructing the administration of justice. A violation of the sub judice rule may render one liable for indirect contempt under Sec. 3(d), Rule 71 of the Rules of Court.[11] The rationale for the rule adverted to is set out in *Nestle Philippines v. Sanchez*:

[I]t is a traditional conviction of civilized society everywhere that courts and juries, in the decision of issues of fact and law should be immune from every extraneous influence; that facts should be decided upon evidence produced in court; and that the determination of such facts should be uninfluenced by bias, prejudice or sympathies.[12]

Chavez, assuming for argument that it involves issues subject of the respondent Committee's assailed investigation, is no longer sub judice or "before a court or judge for consideration." [13] For by an en banc Resolution dated July 1, 2008, the Court, in G.R. No. 164527, denied with finality the motion of Chavez, as the petitioner in Chavez, for reconsideration of the Decision of the Court dated August 15, 2007. In fine, it will not avail petitioners any to invoke the sub judice effect of Chavez and resist, on that ground, the assailed congressional invitations and subpoenas. The sub judice issue has been rendered moot and academic by the supervening issuance of the en banc Resolution of July 1, 2008 in G.R. No. 164527. An issue or a case becomes moot and academic when it ceases to present a justiciable controversy, so that a determination of the issue would be without practical use and value. In such cases, there is no actual substantial relief to which the petitioner would be entitled and which would be negated by the dismissal of the petition.[14] Courts decline jurisdiction over such cases or dismiss them on the ground of mootness, save in certain exceptional instances,[15] none of which, however, obtains under the premises.

Thus, there is no more legal obstacle--on the ground of sub judice, assuming it is invocable--to the continuation of the Committee's investigation challenged in this proceeding.

At any rate, even assuming hypothetically that Chavez is still pending final adjudication by the Court, still, such circumstance would not bar the continuance of the committee investigation. What we said in *Sabio v. Gordon* suggests as much:

The same directors and officers contend that the Senate is barred from inquiring into the same issues being litigated before the Court of Appeals and the Sandiganbayan. Suffice it to state that the Senate Rules of Procedure Governing Inquiries in Aid of Legislation provide that the filing or pendency of any prosecution or administrative action should not stop or abate any inquiry to carry out a legislative purpose.[16]

A legislative investigation in aid of legislation and court proceedings has different purposes. On one hand, courts conduct hearings or like adjudicative procedures to settle, through the application of a law, actual controversies arising between adverse litigants and involving demandable rights. On the other hand, inquiries in aid of legislation are, inter alia, undertaken as tools to enable the legislative body to gather information and, thus, legislate wisely and effectively;[17] and to determine whether there is a need to improve existing laws or enact new or remedial legislation,[18] albeit the inquiry need not result in any potential legislation. On-going judicial proceedings do not preclude congressional hearings in aid of legislation. *Standard Chartered Bank (Philippine Branch) v. Senate Committee on Banks, Financial Institutions and Currencies (Standard Chartered Bank)* provides the following reason:

[T]he mere filing of a criminal or an administrative complaint before a court or 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 administrative investigation.

As succinctly stated in *x x x Arnault v. Nazareno*--

[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.[19]

While *Sabio* and *Standard Chartered Bank* advert only to pending criminal and administrative cases before lower courts as not posing a bar to the continuation of a legislative inquiry, there is no rhyme or reason that these cases' doctrinal pronouncement and their rationale cannot be extended to appealed cases and special civil actions awaiting final disposition before this Court.

The foregoing consideration is not all. The denial of the instant recourse is still indicated for another compelling reason. As may be noted, PS Resolution Nos. 537 and 543 were passed in 2006 and the letter-invitations and subpoenas directing the petitioners to appear and testify in connection with the twin resolutions were sent out in the month of August 2006 or in the past Congress. On the postulate that the Senate of each Congress acts separately and independently of the Senate before and after it, the aforesaid invitations and subpoenas are considered *functus officio* and the related legislative inquiry conducted is, for all intents and purposes, terminated. In this regard, the Court draws attention to its pronouncements embodied in its Resolution of September 4, 2008 in G.R. No. 180643 entitled *Neri v. Senate Committee on Accountability of Public Officers and Investigations*:

Certainly, *x x x* the Senate as an institution is "continuing," as it is not dissolved as an entity with each national election or change in the composition of its members. However, in the conduct of its day-to-day business, the Senate of each Congress acts separately and independently of the Senate before it. The Rules of the Senate itself confirms this when it states:

x x x x

SEC. 123. Unfinished business at the end of the session shall be taken up at the next session in the same status.

All pending matters and proceedings shall terminate upon the expiration of one (1) Congress, but may be taken

by the succeeding Congress as if present[ed] for the first time.

Undeniably from the foregoing, all pending matters and proceedings, i.e., unpassed bills and even legislative investigations, of the Senate of a particular Congress are considered terminated upon the expiration of that Congress and it is merely optional on the Senate of the succeeding Congress to take up such unfinished matters, not in the same status, but as if presented for the first time. The logic and practicality of such rule is readily apparent considering that the Senate of the succeeding Congress (which will typically have a different composition as that of the previous Congress) should not be bound by the acts and deliberations of the Senate of which they had no part. x x x (Emphasis added.)

Following the lessons of *Neri*, as reiterated in *Garcillano v. The House of Representatives Committees on Public Information, Public Order and Safety, et al.*,^[20] it can very well be stated that the termination of the assailed investigations has veritably mooted the instant petition. This disposition becomes all the more impeccable, considering that the Senate of the present Congress has not, per available records, opted to take up anew, as an unfinished matter, its inquiry into the investment of OWWA funds in the Smokey Mountain project.

With the foregoing disquisition, the Court need not belabor the other issues raised in this recourse. Suffice it to state that when the Committee issued invitations and subpoenas to petitioners to appear before it in connection with its investigation of the aforementioned investments, it did so pursuant to its authority to conduct inquiries in aid of legislation. This is clearly provided in Art. VI, Sec. 21 of the Constitution, which was quoted at the outset. And the Court has no authority to prohibit a Senate committee from requiring persons to appear and testify before it in connection with an inquiry in aid of legislation in accordance with its duly published rules of procedure.^[21] *Sabio* emphasizes the importance of the duty of those subpoenaed to appear before the legislature, even if incidentally incriminating questions are expected to be asked:

Anent the right against self-incrimination, it must be emphasized that ["this right may be] invoked by the said directors and officers of Philcomsat x x x only when the incriminating question is being asked, since they have no way of knowing in advance the nature or effect of the questions to be asked of them." That this right may possibly be violated or abused is no ground for denying respondent Senate Committees their power of inquiry. The consolation is that when this power is abused, such issue may be presented before the courts.

x x x x

Let it be stressed at this point that so long as the constitutional rights of witnesses x x x will be respected by respondent Senate Committees, it [is] their duty to cooperate with them in their efforts to obtain the facts needed for intelligent legislative action. The unremitting obligation of every citizen is to respond to subpoenas, to respect the dignity of the Congress and its Committees, and to testify fully with respect to matters within the realm of proper investigation.^[22] (Emphasis supplied.)

As a matter of long and sound practice, the Court refrains from touching on the issue of constitutionality except when it is unavoidable and is the very *lis mota*^[23] of the controversy. So it must be here. Indeed, the matter of the constitutionality of the assailed Committee invitations and subpoenas issued vis-à-vis the investigation conducted pursuant to PS Resolution Nos. 537 and 543 has ceased to be a justiciable controversy, having been rendered moot and academic by supervening events heretofore indicated. In short, there is no more investigation to be continued by virtue of said resolutions; there is no more investigation the constitutionality of which is subject to a challenge.

WHEREFORE, the petition is DENIED.

No pronouncement as to costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Tinga, Chico-Nazario, Nachura, Leonardo-De Castro, Brion and Peralta, JJ., concur.

[1] Rollo, p. 39.

[2] Id. at 41.

[3] Id. at 236.

[4] Id. at 261.

[5] Id. at 280-293.

[6] Id. at 264.

[7] G.R. No. 164527, August 15, 2007, 530 SCRA 235.

[8] Rollo, pp. 296-322.

[9] Id. at 335.

[10] Id. at 503.

[11] Sec. 3. Indirect contempt to be punished after charge and hearing.--After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon x x x and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

x x x x

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

[12] G.R. Nos. L-75209 & L-78791, September 30, 1987, 154 SCRA 542, 546; citing *In Re Stolen*, 216 N.W. 127.

[13] S.H. Gifis, *Law Dictionary* 492 (4th ed., 1996).

[14] *Vda. de Dabao v. Court of Appeals*, G.R. No. 116526, March 23, 2004, 426 SCRA 91, 97.

[15] *David v. Macapagal-Arroyo*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, May 3, 2006, 489 SCRA 160, 214-215: Courts will decide cases, otherwise moot and academic, if: first, there is a grave violation of the Constitution; second, the exceptional character of the situation and the paramount public interest is involved; third, when constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and fourth, the case is capable of repetition yet evading review.

[16] G.R. Nos. 174340, 174318 & 174177, October 17, 2006, 504 SCRA 704, 739.

[17] *Arnault v. Nazareno*, 87 Phil. 29 (1950).

[18] *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, March 25, 2008, 549 SCRA 77, 168; citing W. Keefe & M. Ogul, *The American Legislative Process: Congress and the States* 20-23 (4th ed., 1977).

[19] G.R. No. 167173, December 27, 2007, 541 SCRA 456, 471-472.

[20] G.R. Nos. 170338 & 179275, December 23, 2008.

[21] The Senate Blue Ribbon Committee v. Majaducon, G.R. Nos. 136760 & 138378, July 29, 2003, 407 SCRA 356, 362-363.

[22] Supra note 16, at 739-740; citing Cruz, Constitutional Law 307 (2003).

[23] The beginning of an action or suit.

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