

**JOSE F. S. BENGZON JR., ABELARDO TERMULO, JOSE MANTECON,
VICENTE MILLS JR., LEONARDO GAMBOA, KURT BACHMANN JR.,
JOSE V. E. JIMENEZ, ERNESTO CALUYA, AGERICO UNGSON, SUSAN
ROXAS, ...**

G.R. No. 89914. November 20, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for prohibition with prayer for the issuance of a temporary restraining order and/or injunctive relief, to enjoin the respondent Senate Blue Ribbon Committee from requiring the petitioners to testify and produce evidence at its inquiry into the alleged sale of the equity of Benjamin "Kokoy" Romualdez to the Lopa Group in thirty-six (36) or thirty-nine (39) corporations.

On 30 July 1987, the Republic of the Philippines, repre-sented by the Presidential Commission on Good Government (PCGG), assisted by the Solicitor General, filed with the Sandiganbayan Civil Case No. 0035 (PCGG Case No. 35) entitled "Republic of the Philippines vs. Benjamin "Kokoy" Romualdez et. al.", for reconveyance, reversion, accounting, restitution and damages.

The complaint was amended several times by impleading new defendants and/or amplifying the allegations therein. Under the Second Amended Complaint,[1] the herein petitioners were impleaded as party defendants.

The complaint insofar as pertinent to herein petitioners, as defendants, alleges among others that:

"14. Defendants Benjamin (Kokoy) Romualdez and Juliette Gomez Romualdez, acting by themselves and/or in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, and taking undue advantage of their relationship, influence and connection with the latter Defendant spouses, engaged in devices, schemes and stratagems to unjustly enrich themselves at the expense of Plaintiff and the Filipino people, among others:

(a) obtained, with the active collaboration of Defendants Senen J. Gabaldon, Mario D. Camacho, Mamerto Nepomuceno, Carlos J. Valdez, Cesar C. Zalamea and Francisco Tantuico, Atty. Jose Bengzon, Jr. and his law partners, namely: Edil-berto S. Narciso, Jr., Jose Vicente E. Jimenez, Amando V. Faustino, Jr., and Leonardo C. Cruz; Jose S. Sandejas and his fellow senior managers of FMMC/PNI Holdings groups of companies such as Leonardo Gamboa, Vicente T. Mills, Jr., Jose M. Mantecon, Abelardo S. Termulo, Rex C. Drilon II and Kurt Bachmann, Jr., control of some of the biggest business enterprises in the Philippines, such as the Manila Electric Company (MERALCO), Benguet Consolidated Mining Corporation (BENGUET), Pilipinas Shell Corporation and the Philippine Commercial International Bank (PCI Bank) by employing devious financial schemes and techniques calculated to require the massive infusion and hemorrhage of government funds with minimum or negligible 'cash-out' from Defendant Benjamin Romualdez. x x x

x x x

(m) manipulated, with the support, assistance and collaboration of Phil-guarantee officials led by chairman Cesar E.A. Virata and the senior managers of FMMC/PNI Holdings, Inc. led by Jose S. Sandejas, Jr., Jose M.

Mantecon and Kurt S. Bachmann, Jr., among others, the formation of Erectors Holdings, Inc. without infusing additional capital solely for the purpose of Erectors Incorporated with Philguarantee in the amount of P527,387,440.71 within sufficient securities/collaterals just to enable Erectors Inc. to appear viable and to borrow more capitals, so much so that its obligation with Philguarantee has reached a total of more than P2 Billion as of June 30, 1987.

(n) at the onset of the present Administration and/or within the week following the February 1986 People's Revolution, in conspiracy with, support, assistance and collaboration of the abovenamed lawyers of the Bengzon Law Offices, or specifically Defendants Jose F.S. Bengzon, Jr., Jose V.E. Jimenez, Amando V. Faustino, Jr., and Edilberto S. Narciso, Jr. manipulated, schemed, and/or executed a series of devices intended to conceal and place, and/or for the purpose of concealing and placing, beyond the inquiry and jurisdiction of the Presidential Commission on Good Government (PCGG) herein Defendants individual and collective funds, properties, and assets subject of and/or suited in the instant Complaint.

(o) maneuvered, with the technical know-how and legalistic talents of the FMMC senior managers and some of the Bengzon law partners, such as Attys. Jose F.S. Bengzon, Jr., Edilberto S. Narciso, Jr., Amando V. Faustino, Jose Vicente E. Jimenez and Leonardo C. Cruz, the purported sale of defendant Benjamin Romualdez's interests in the (i) Professional Managers, Inc., (ii) A & E International Corporation (A & E), First Manila Management Corporation (FMMC), (iv) Maguindanao Navigation (MNI), (v) SOLOIL, Inc. (SOLOIL), (vi) Philippine World Travel Inc. (PWTI) and its subsidiaries consisting of 36 corporations in all, to PNI Holdings, Inc. (whose purported incorporators are all members of Atty. Jose F.S. Bengzon's law firm) for only P5 million on March 3, 1986 or three days after the creation of the Presidential Commission on Good Government on February 28, 1986, for the sole purpose of deceiving and pre-empting the Government, particularly the PCGG, and making it appear that defendant Benjamin Romualdez had already divested himself of his ownership of the same when in truth and in fact, his interests are well intact and being protected by Atty. Jose F.S. Bengzon, Jr. and some of his law partners, together with the FMMC senior managers who still control and run the affairs of said corporations, and in order to entice the PCGG to approve the said fictitious sale, the above-named defendants offered P20 million as 'donation' to the Government;

(p) misused, with the connivance, support and technical assistance of the Bengzon law firm represented by Atty. Jose F.S. Bengzon, Jr. as legal counsel, together with defendants Cesar Zalamea, Antonio Ozaeta, Mario D. Camacho and Senen J. Gabaldon as members of the Board of Directors of the Philippine Commercial International Bank (PCIB), the Meralco Pension Fund (Fund, for short) in the amount of P25 million by causing it to be invested in the PCIB and through the Bank's TSG, assigned to PCI Development and PCI Equity at 50% each, the Fund's (a) 8,028,011 common shares in the Bank and (b) 'Deposit in Subscription' in the amount of P4,929,972.50 but of the agreed consideration of P28 million for the said assignment, PCI Development and PCI Equity were able to pay only P5,500.00 downpayment and the first amortization of P3,937,500.00 thus prompting the Fund to rescind its assignment, and the consequent reversion of the assigned shares brought the total shareholding of the Fund to 11,470,555 voting shares or 36.8% of the voting stock of the PCIB, and this development (which the defendants themselves orchestrated or allowed to happen) was used by them as an excuse for the unlawful dismantling or cancellation of the Fund's 10 million shares for allegedly exceeding the 30-percent ceiling prescribed by Section 12-B of the General Banking Act, although, they know for a fact that what the law declares as unlawful and void ab initio are the subscriptions in excess of the 30% ceiling 'to the extent of the excess over any of the ceilings prescribed ...' and not the whole or entire stockholding which they allowed to stay for six years (from June 30, 1980 to March 24, 1986);

(q) cleverly hid behind the veil of corporate entity, through the use of the names and managerial expertise of the FMMC senior managers and lawyers identified as Jose B. Sandejas, Leonardo Gamboa, Vicente T. Mills, Abelardo S. Termulo, Edilberto S. Narciso, Jr., Jose M. Mantecon, Rex C. Drilon II, Kurt Bachmann, Jr. together with the legal talents of corporate lawyers, such as Attys. Jose F.S. Bengzon, Jr., Jose V.E. Jimenez, Amando V. Faustino, Jr. and Leonardo C. Cruz, the ill-gotten wealth of Benjamin T. Romualdez including,

among others, the 6,229,177 shares in PCIB registered in the names of Trans Middle East Phils. Equities, Inc. and Edilberto S. Narciso, Jr. which they refused to surrender to PCGG despite their disclosure as they tried and continue to exert efforts in getting hold of the same as well as the shares in Benguet registered in the names of Palm Avenue Holdings and Palm Avenue Realty Development Corp. purportedly to be applied as payment for the claim of P70 million of a 'merger company of the First Manila Management Corp. group' supposedly owned by them although the truth is that all the said firms are still beneficially owned by defendants Benjamin Romualdez.

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On 28 September 1988, petitioners (as defendants) filed their respective answers.[2] Meanwhile, from 2 to 6 August 1988, conflicting reports on the disposition by the PCGG of the "Romualdez corporations" were carried in various metropolitan newspapers. Thus, one newspaper reported that the Romualdez firms had not been sequestered because of the opposition of certain PCGG officials who "had worked previously as lawyers of the Marcos crony firms." Another daily reported otherwise, while others declared that on 3 March 1986, or shortly after the EDSA February 1986 revolution, the "Romualdez companies" were sold for P5 million, without PCGG approval, to a holding company controlled by Romualdez, and that Ricardo Lopa, the President's brother-in-law, had effectively taken over the firms, even pending negotiations for the purchase of the corporations, for the same price of P5 million which was reportedly way below the fair value of their assets.[3]

On 13 September 1988, the Senate Minority Floor Leader, Hon. Juan Ponce Enrile delivered a speech "on a matter of personal privilege" before the Senate on the alleged "take-over of SOLOIL Incorporated, the flagship of the First Manila Management of Companies (FMMC) by Ricardo Lopa" and called upon "the Senate to look into the possible violation of the law in the case, particularly with regard to Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act." [4]

On motion of Senator Orlando Mercado, the matter was referred by the Senate to the Committee on Accountability of Public Officers (Blue Ribbon Committee).[5] Thereafter, the Senate Blue Ribbon Committee started its investigation on the matter. Petitioners and Ricardo Lopa were subpoenaed by the Committee to appear before it and testify on "what they know" regarding the "sale of the thirty-six (36) corporations belonging to Benjamin "Kokoy" Romualdez."

At the hearing held on 23 May 1989, Ricardo Lopa declined to testify on the ground that his testimony may "unduly prejudice" the defendants in Civil Case No. 0035 before the Sandiganbayan. Petitioner Jose F.S. Bengzon, Jr. likewise refused to testify invoking his constitutional right to due process, and averring that the publicity generated by respondent Committee's inquiry could adversely affect his rights as well as those of the other petitioners who are his co-defendants in Civil Case No. 0035 before the Sandiganbayan.

The Senate Blue Ribbon Committee, thereupon, suspended its inquiry and directed the petitioners to file their memorandum on the constitutional issues raised, after which, it issued a resolution[6] dated 5 June 1989 rejecting the petitioners' plea to be excused from testifying, and the Committee voted to pursue and continue its investigation of the matter. Senator Neptali Gonzales dissented.[7]

Claiming that the Senate Blue Ribbon Committee is poised to subpoena them and require their attendance and testimony in proceedings before the Committee, in excess of its jurisdiction and legislative purpose, in clear and blatant disregard of their Constitutional rights, and to their grave and irreparable damage, prejudice and injury, and that there is no appeal nor any other plain, speedy and adequate remedy in the ordinary course of law, the petitioners filed the present petition for prohibition with a prayer for temporary restraining order and/or injunctive relief.

Meanwhile, one of the defendants in Civil Case No. 0035 before the Sandiganbayan, Jose S. Sandejas, filed with the Court a motion for intervention,[8] which the Court granted in the resolution[9] of 21 December 1989, and required the respondent Senate Blue Ribbon Committee to comment on the petition in intervention. In compliance therewith, respondent Senate Blue Ribbon Committee filed its comment[10] thereon.

Before discussing the issues raised by petitioners and intervenor, we will first tackle the jurisdictional question raised by the respondent Committee.

In its comment, respondent Committee claims that this Court cannot properly inquire into the motives of the lawmakers in conducting legislative investigations, much less can it enjoin the Congress or any of its regular and special committees -- like what petitioners seek -- from making inquiries in aid of legislation, under the doctrine of separation of powers, which obtains in our present system of government.

The contention is untenable. In *Angara vs. Electoral Commission*,[11] the Court held:

"The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. The Constitution has provided for an elaborate system of checks and balances to secure coordination in the workings of the various departments of the government. x x x.

x x x x x x x x

"But in the main, the Constitution has blocked out with deft strokes and in bold lines, allotment of power to the executive, the legislative and the judicial departments of the government. The overlapping and interlacing of functions and duties between the several departments, however, sometimes makes it hard to say just where the one leaves off and the other begins. In times of social disquietude or political excitement, the great landmarks of the Constitution are apt to be forgotten or marred, if not entirely obliterated. In cases of conflict, the judicial department is the only constitutional organ which can be called upon to determine the proper allocation of powers between the several departments and among the integral or constituent units thereof.

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The Constitution is a definition of the powers of government. Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries; it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed 'judicial supremacy' which properly is the power of judicial review under the Constitution. Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government."

The "allocation of constitutional boundaries" is a task that this Court must perform under the Constitution. Moreover, as held in a recent case,[12] "(t)he political question doctrine neither interposes an obstacle to judicial determination of the rival claims. The jurisdiction to delimit constitutional boundaries has been given to this Court. It cannot abdicate that obligation mandated by the 1987 Constitution, although said provision by no means does away with the applicability of the principle in appropriate cases." [13]

The Court is thus of the considered view that it has jurisdiction over the present controversy for the purpose of determining the scope and extent of the power of the Senate Blue Ribbon Committee to conduct inquiries into private affairs in purported aid of legislation.

Coming to the specific issues raised in this case, petitioners contend that (1) the Senate Blue Ribbon Committee's inquiry has no valid legislative purpose, i.e., it is not done in aid of legislation; (2) the sale or disposition of the Romualdez corporations is a "purely private transaction" which is beyond the power of the Senate Blue Ribbon Committee to inquire into; and (3) the inquiry violates their right to due process.

The 1987 Constitution expressly recognizes the power of both houses of Congress to conduct inquiries in aid of legislation.[14] Thus, Section 21, Article VI thereof provides:

"The Senate or the House of Representatives or any of its respective committee 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." [15]

The power of both houses of Congress to conduct inquiries in aid of legislation is not, therefore, absolute or unlimited. Its exercise is circumscribed by the aforequoted provision of the Constitution. Thus, as provided therein, the investigation must be "in aid of legislation in accordance with its duly published rules of procedure" and that "the rights of persons appearing in or affected by such inquiries shall be respected". It follows then that the rights of persons under the Bill of Rights must be respected, including the right to due process and the right not to be compelled to testify against one's self.

The power to conduct formal inquiries or investigations is specifically provided for in Sec. 1 of the Senate Rules of Procedure Governing Inquiries in Aid of Legislation. Such inquiries may refer to the implementation or re-examination of any law or in connection with any proposed legislation or the formulation of future legislation. They may also extend to any and all matters vested by the Constitution in Congress and/or in the Senate alone.

As held in *Jean L. Arnault vs. Leon Nazareno, et al.*, [16] the inquiry, to be within the jurisdiction of the legislative body making it, must be material or necessary to the exercise of a power in it vested by the Constitution, such as to legislate or to expel a member.

Under Sec. 4 of the aforementioned Rules, the Senate may refer to any committee or committees any speech or resolution filed by any Senator which in its judgment requires an appropriate inquiry in aid of legislation. In order therefore to ascertain the character or nature of an inquiry, resort must be had to the speech or resolution under which such an inquiry is proposed to be made.

A perusal of the speech of Senator Enrile reveals that he (Senator Enrile) made a statement which was published in various newspapers on 2 September 1988 accusing Mr. Ricardo "Baby" Lopa of "having taken over the FMMC Group of Companies." As a consequence thereof, Mr. Lopa wrote a letter to Senator Enrile on 4 September 1988 categorically denying that he had "taken over" the FMMC Group of Companies; that former PCGG Chairman Ramon Diaz himself categorically stated in a telecast interview by Mr. Luis Beltran on Channel 7 on 31 August 1988 that there has been no takeover by him (Lopa); and that these repeated allegations of a "takeover" on his (Lopa's) part of FMMC are baseless as they are malicious.

The Lopa reply prompted Senator Enrile, during the session of the Senate on 13 September 1988, to avail of the privilege hour,[17] so that he could respond to the said Lopa letter, and also to vindicate his reputation as a Member of the Senate of the Philippines, considering the claim of Mr. Lopa that his (Enrile's) charges that he (Lopa) had taken over the FMMC Group of Companies are "baseless" and "malicious." Thus, in his speech,[18] Senator Enrile said, among others, as follows:

"Mr. President, I rise this afternoon on a matter of personal privilege; the privilege being that I received, Mr. President, a letter dated September 4, 1988, signed by Mr. Ricardo A. Lopa, a.k.a. or Baby Lopa, wherein he denies categorically that he has taken over the First Manila Management Group of Companies which includes SOLOIL Incorporated.

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"In answer to Mr. Lopa, I will quote pertinent portions from an Official Memorandum to the Presidential Commission on Good Government written and signed by former Governor, now Congressman Jose Ramirez, in his capacity as head of the PCGG Task Force for Region VIII: In his memorandum dated July 3, 1986, then Governor Ramirez stated that when he and the members of his task force sought to serve a sequestration order on the management of SOLOIL in Tanauan, Leyte, management officials assured him that relatives of the President of the Philippines were personally discussing and representing SOLOIL so that the order of sequestration would be lifted and that the new owner was Mr. Ricardo A. Lopa.

"I will quote the pertinent portions in the Ramirez' memorandum.

"The first paragraph of the memorandum reads as follows and I quote, Mr. President:

'Our sequestration work of SOLOIL in Tanauan, Leyte was not heeded by management because they said another representation was being made to this Commission for the eventual lifting of our sequestration order. They even assured us that Mr. Ricardo Lopa and Peping Cojuangco were personally discussing and representing SOLOIL, so the order of sequestration will finally be lifted. While we attempted to carry on our order, management refused to cooperate and vehemently turned down our request to make available to us the records of the company. In fact it was obviously clear that they will meet us with force the moment we insist on doing normally our assigned task. In view of the impending threat, and to avoid any untoward incident we decided to temporarily suspend our work until there is a more categorical stand of this Commission in view of the seemingly influential representation being made by SOLOIL for us not to continue our work.'

"Another pertinent portion of the same memorandum is paragraph five, which reads as follows, and I quote Mr. President:

'The President, Mr. Gamboa, this is, I understand, the President of SOLOIL, and the Plant Superintendent, Mr. Jimenez including their chief counsel, Atty. Mandong Mendiola are now saying that there have been divestment, and that the new owner is now Mr. Ricardo Lopa who according to them, is the brother-in-law of the President. They even went further by telling us that even Peping Cojuangco who we know is the brother of her excellency is also interested in the ownership and management of SOLOIL. When he demanded for supporting papers which will indicate aforesaid divestment, Messrs. Gamboa, Jimenez and Mendiola refused vehemently to submit these papers to us, instead they said it will be submitted directly to this Commission. To our mind their continuous dropping of names is not good for this Commission and even to the President if our desire is to achieve respectability and stability of the government.'

"The contents of the memorandum of then Governor and now Congressman Jose Ramirez were personally confirmed by him in a news interview last September 7, 1988.

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"Also relevant to this case, Mr. President, is a letter of Mr. Ricardo Lopa himself in August 11, 1988 issue of the newspaper Malaya headlined 'On Alleged Takeover of Romualdez Firms.'

"Mr. Lopa states in the last paragraph of the published letter and I quote him:

'12. As of this writing, the sales agreement is under review by the PCGG solely to determine the appropriate price. The sale of these companies and our prior right to reacquire them have never been at issue.'

"Perhaps I could not make it any clearer to Mr. Lopa that I was not really making baseless and malicious statements."

Senator Enrile concluded his privilege speech in the following tenor:

"Mr. President, it may be worthwhile for the Senate to look into the possible violation of the law in the case particularly with regard to Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act, Section 5 of which reads as follows and I quote:

'Sec. 5. Prohibition on certain relatives. -- It shall be unlawful for the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, or the Speaker of the House of Representatives, to intervene directly or indirectly, in any business, trans-action, contract or application with the Government: Provided, that this section shall not apply to any person who prior to the assumption of office of any of the above officials to whom he is related, has been already dealing with the Government along the same line of business, nor to any transaction, contract or application filed by him for approval of which is not discretionary on the part of the officials concerned but depends upon compliance with requi-sites provided by law, nor to any act lawfully performed in an official capacity or in the exercise of a profession.'

"Mr. President, I have done duty to this Senate and to myself. I leave it to this august Body to make its own conclusion."

Verily, the speech of Senator Enrile contained no suggestion of contemplated legislation; he merely called upon the Senate to look into a possible violation of Sec. 5 of RA No. 3019, otherwise known as "The Anti-Graft and Corrupt Practices Act." In other words, the purpose of the inquiry to be conducted by respondent Blue Ribbon Committee was to find out whether or not the relatives of President Aquino, particularly Mr. Ricardo Lopa, had violated the law in connection with the alleged sale of the 36 or 39 corporations belonging to Benjamin "Kokoy" Romualdez to the Lopa Group. There appears to be, therefore, no intended legislation involved.

The Court is also not impressed with the respondent Committee's argument that the questioned inquiry is to be conducted pursuant to Senate Resolution No. 212. The said resolution was introduced by Senator Jose D. Lina in view of the representations made by leaders of school youth, community groups and youth of non-governmental organizations to the Senate Committee on Youth and Sports Development, to look into the charges against the PCGG filed by three (3) stockholders of Oriental Petroleum, i.e., that it had adopted a "get-rich-quick scheme" for its nominee-directors in a sequestered oil, exploration firm. The pertinent portion of Senate Resolution No. 212 reads as follows:

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"WHEREAS, recent developments have shown that no less than the Solicitor-General has stated that the PCGG Chairman and at least three Commissioners should resign and that the agency should rid itself of 'ineptness, incompetence and corruption' and that the Sandiganbayan has reportedly ordered the PCGG to answer charges filed by three stockholders of Oriental Petroleum that it had adopted a 'get-rich-quick scheme' for its nominee-directors in a sequestered oil exploration firm;

"WHEREAS, leaders of school youth, community groups and youth of non-governmental organization had made representations to the Senate Committee on Youth and Sports Development to look into the charges against PCGG since said agency is a symbol of the changes expected by the people when the EDSA revolution took place and that the ill-gotten wealth to be recovered will fund priority projects which will benefit our people such as CARP, free education in the elementary and secondary levels, reforestation, and employment generation for rural and urban workers;

"WHEREAS, the government and the present leadership must demonstrate in their public and private lives integrity, honor and efficient management of government services lest our youth become disillusioned and lose hope and return to an ideology and form of government which is repugnant to true freedom, democratic participation and human rights: Now, therefore, be it.

"Resolved by the Senate, That the activities of the Presidential Commission on Good Government be investigated by the appropriate Committee in connection with the implementation of Section 26, Article XVIII of the Constitution." [19]

Thus, the inquiry under Senate Resolution No. 212 is to look into the charges against the PCGG filed by the three (3) stockholders of Oriental Petroleum in connection with the implementation of Section 26, Article XVIII of the Constitution.

It cannot, therefore, be said that the contemplated inquiry on the subject of the privilege speech of Senator Juan Ponce Enrile, i.e., the alleged sale of the 36 (or 39) corporations belonging to Benjamin "Kokoy" Romualdez to the Lopa Group is to be conducted pursuant to Senate Resolution No. 212, because, firstly, Senator Enrile did not indict the PCGG, and, secondly, neither Mr. Ricardo Lopa nor the herein petitioners are connected with the government but are private citizens.

It appears, therefore, that the contemplated inquiry by respondent Committee is not really "in aid of legislation" because it is not related to a purpose within the jurisdiction of Congress, since the aim of the investigation is to find out whether or not the relatives of the President or Mr. Ricardo Lopa had violated Section 5 of RA No. 3019, the "Anti-Graft and Corrupt Practices Act", a matter that appears more within the province of the courts rather than of the legislature. Besides, the Court may take judicial notice that Mr. Ricardo Lopa died during the pendency of this case. In *John T. Watkins vs. United States*, [20] it was held:

"xxx. The power of congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic, or political system for the purpose of enabling Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste. But broad as is this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of congress. This was freely conceded by the Solicitor General in his argument in this case. Nor is the Congress a law enforcement or trial agency. These are functions of the executive and judicial departments of government. No inquiry is an end in itself; it must be related to and in furtherance of a legitimate task of Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible." (underlining supplied)

It can not be overlooked that when respondent Committee decided to conduct its investigation of the petitioners, the complaint in Civil Case No. 0035 had already been filed with the Sandiganbayan. A perusal of that complaint shows that one of its principal causes of action against herein petitioners, as defendants therein, is the alleged sale of the 36 (or 39) corporations belonging to Benjamin "Kokoy" Romualdez. Since the issues in said complaint had long been joined by the filing of petitioners' respective answers thereto, the issue sought to be investigated by the respondent Committee is one over which jurisdiction had been acquired by the Sandiganbayan. In short, the issue

has been pre-empted by that court. To allow the respondent Committee to conduct its own investigation of an issue already before the Sandiganbayan would not only pose the possibility of conflicting judgments between a legislative committee and a judicial tribunal, but if the Committee's judgment were to be reached before that of the Sandiganbayan, the possibility of its influence being made to bear on the ultimate judgment of the Sandiganbayan can not be discounted.

In fine, for the respondent Committee to probe and inquire into the same justiciable controversy already before the Sandiganbayan, would be an encroachment into the exclusive domain of judicial jurisdiction that had much earlier set in. In *Bareblatt vs. United States*,^[21] it was held that:

"Broad as it is, the power is not, however, without limitations. Since Congress may only investigate into those areas in which it may potentially legislate or appropriate, it cannot inquire into matters which are within the exclusive province of one of the other branches of the government. Lacking the judicial power given to the Judiciary, it cannot inquire into matters that are exclusively the concern of the Judiciary. Neither can it supplant the Executive in what exclusively belongs to the Executive. x x x."

Now to another matter. It has been held that "a congressional committee's right to inquire is 'subject to all relevant limitations placed by the Constitution on governmental action,' including 'the relevant limitations of the Bill of Rights'." ^[22]

In another case -

"... the mere semblance of legislative purpose would not justify an inquiry in the face of the Bill of Rights. The critical element is the existence of, and the weight to be ascribed to, the interest of the Congress in demanding disclosures from an unwilling witness. We cannot simply assume, however, that every congressional investigation is justified by a public need that over-balances any private rights affected. To do so would be to abdicate the responsibility placed by the Constitution upon the judiciary to insure that the Congress does not unjustifiably encroach upon an individual's right to privacy nor abridge his liberty of speech, press, religion or assembly."^[23]

One of the basic rights guaranteed by the Constitution to an individual is the right against self-incrimination.^[24] This right construed as the right to remain completely silent may be availed of by the accused in a criminal case; but it may be invoked by other witnesses only as questions are asked of them.

This distinction was enunciated by the Court in *Romeo Chavez vs. The Honorable Court of Appeals, et al.*^[25] thus-

Petitioner, as 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."

Moreover, this right of the accused is extended to respondents in administrative investigations but only if they partake of the nature of a criminal proceeding or analogous to a criminal proceeding. In *Galman vs. Pamaran*,^[26] the Court reiterated the doctrine in *Cabal vs. Kapunan* (6 SCRA 1059) to illustrate the right of witnesses to invoke the right against self-incrimination not only in criminal proceedings but also in all other types of suit.

It was held that:

"We did not therein state that since he is not an accused and the case is not a criminal case, Cabal cannot refuse to take the witness stand and testify, and that he can invoke his right against self-incrimination only when a question which tends to elicit an answer that will incriminate him is propounded to him. Clearly then, it is not the character of the suit involved but the nature of the proceedings that controls. 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."

We do not here modify these doctrines. If we presently rule that petitioners may not be compelled by the respondent Committee to appear, testify and produce evidence before it, it is only because we hold that the questioned inquiry is not in aid of legislation and, if pursued, would be violative of the principle of separation of powers between the legislative and the judicial departments of government, ordained by the Constitution.

WHEREFORE, the petition is GRANTED. The Court holds that, under the facts, including the circumstance that petitioners are presently impleaded as defendants in a case before the Sandiganbayan, which involves issues intimately related to the subject of contemplated inquiry before the respondent Committee, the respondent Senate Blue Ribbon Committee is hereby enjoined from compelling the petitioners and intervenor to testify before it and produce evidence at the said inquiry.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Paras, Feliciano, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., and Romero, JJ., concur.

Gutierrez, Jr. and Cruz, JJ., see dissenting opinion.

Narvasa, J., joins J. Gutierrez, Jr. and J. Cruz in their dissenting opinion.

[1] Annex "A", Rollo, p. 38

[2] Annexes "B", "C" and "D", Rollo, pp. 98, 114 and 128

[3] Rollo, pp. 219-220

[4] Annex "E-1", Rollo, p. 143

[5] Annex "E", Rollo, p. 142

[6] Annex "H-1", Rollo, p. 162

[7] Annex "H-2", Rollo, 189

[8] Rollo, p. 264

[9] Ibid., p. 263

[10] Ibid., p. 284

[11] 63 Phil. 139, 156, 157, 158-159

[12] Neptali A. Gonzales, et al. vs. Hon. Catalino Macaraig, Jr., et al., G.R. No. 87636, 19 November 1990, 191 SCRA 452, 463

[13] Section 1, Article VIII of the 1987 Constitution provides:

"Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

"Judicial Power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

[14] In *Arnault vs. Nazareno*, 87 Phil. 29, this Court held that although there was no express provision in the 1935 Constitution giving such power to both houses of Congress, it was so incidental to the legislative function as to be implied.

[15] This was taken from Section 12(2), Article VIII of the 1973 Constitution.

[16] No. L-3820, July 18, 1950, 87 Phil. 29

[17] "Questions of privilege are those affecting the rights, privileges, reputation, conduct, decorum and dignity of the Senate or its Members as well as the integrity of its proceedings." (Sec. 8, Rule XXXIX, Rules of the Senate.)

[18] Annex - 2, Rollo, p. 242

[19] Sec. 26, Article XVIII of the Constitution provides: "The authority to issue sequestration or freeze orders under Proclamation No. 3, dated March 24, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after the ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period."

[20] 354 U.S. 178, 1 L. ed. 2d 1273 (1957)

[21] 360 U.S. 109, 3 L. ed. 2d 1115, 69 S. Ct. 1081 (1959)

[22] *Maurice A. Hutcheson vs. U.S.*, 369 US 599

[23] *Watkins vs. US*, 354 USS 178 citing *US vs. Rumely*, 345 US 41

[24] Sec. 17, Article III of the Constitution provides:

"No person shall be compelled to be a witness against himself."

[25] G.R. No. L-29169, August 19, 1968, 24 SCRA 663

[26] G.R. Nos. 71208-09, August 30, 1985, 138 SCRA 294

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dissenting Opinion

CRUZ, J.:

I regret I am unable to give my concurrence. I do not agree that the investigation being conducted by the Blue Ribbon Committee is not in aid of legislation.

In *Arnault v. Nazareno*, 87 Phil. 29, this Court observed that "we are bound to presume that the action of the legislative body was with a legitimate object if it is capable of being so construed, and we have no right to assume that the contrary was intended. (*People ex rel. McDonald vs. Keeler*, 99 N.Y. 463; 52 Am. Rep., 49; 2 N.E., 615, quoted with approval by the U.S. Supreme Court in *McGrain vs. Daugherty*, 273 U.S. 135). As far as I know, that is still the rule today.

More importantly, the presumption is supported by the established facts. The inquiry is sustainable as an implied power of the legislature and even as expressly limited by the Constitution.

The inquiry deals with alleged manipulations of public funds and illicit acquisitions of properties now being claimed by the PCGG for the Republic of the Philippines. The purpose of the Committee is to ascertain if and

how such anomalies have been committed. It is settled that the legislature has a right to investigate the disposition of the public funds it has appropriated; indeed, "an inquiry into the expenditure of all public money is an indispensable duty of the legislature." Moreover, an investigation of a possible violation of a law may be useful in the drafting of amendatory legislation to correct or strengthen that law.

The ponencia quotes lengthily from Senator Enrile's speech and concludes that it "contained no suggestion of contemplated legislation; he merely called upon the Senate to look into a possible violation of Section 5 of R.A. No. 3019." However, according to *McGrain v. Daugherty*, *supra*:

Primarily, the purpose for which legislative inquiry and investigation is pursued is to serve as an aid in legislation. Through it, the legislature is able to obtain facts or data in aid of proposed legislation. However, it is not absolutely necessary that the resolution ordering an investigation should in terms expressly state that the object of the inquiry is to obtain data in aid of proposed legislation. It is enough that such purpose appears from a consideration of the entire proceedings or one in which legislation could be had and would be materially aided by the information which the investigation was calculated to elicit. An express avowal of the object would be better, but such is not indispensable. (Emphasis supplied).

The petitioners' contention that the questioned investigation would compel them to reveal their defense in the cases now pending against them in the Sandiganbayan is untenable. They know or should know that they cannot be compelled to answer incriminating questions. The case of *Chavez v. Court of Appeals*, 24 SCRA 663, where we held that an accused may refuse at the outset to take the stand on the ground that the questions to be put by the prosecutor will tend to incriminate him is, of course, not applicable to them. They are not facing criminal charges before the Blue Ribbon Committee. Like any ordinary witness, they can invoke the right against self-incrimination only when and as the incriminating question is propounded.

While it is true that the Court is now allowed more leeway in reviewing the traditionally political acts of the legislative and executive departments, the power must be exercised with the utmost circumspection lest we unduly trench on their prerogatives and disarrange the constitutional separation of powers. That power is available to us only if there is a clear showing of a grave abuse of discretion, which I do not see in the case at bar.

Guided by the presumption and the facts, I vote to DISMISS the petition.

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DISSENTING OPINION

GUTIERREZ, JR., J.:

I regret that I must express a strong dissent to the Court's opinion in this case.

The Court is asserting a power which I believe we do not possess. We are encroaching on the turf of Congress. We are prohibiting the Senate from proceeding with a constitutionally vested function. We are stopping the Senate Blue Ribbon Committee from exercising a legislative prerogative - investigations in aid of legislation. We do so because we somehow feel that the purported aim is not the real purpose.

The Court has no power to second guess the motives behind an act of a House of Congress. Neither can we

substitute our judgment for its judgment on a matter specifically given to it by the Constitution. The scope of the legislative power is broad. It encompasses practically every aspect of human or corporate behavior capable of regulation. How can this Court say that unraveling the tangled and secret skeins behind the acquisition by Benjamin "Kokoy" Romualdez of 39 corporations under the past regime and their sudden sale to the Lopa Group at the outset of the new dispensation will not result in useful legislation?

The power of either House of Congress to conduct investigations is inherent. It needs no textual grant. As stated in *Arnault v. Nazareno*, 87 Phil. 29 (1950)

"Our form of government being patterned after the American system - the framers of our Constitution having drawn largely from American institutions and practices - we can, in this case, properly draw also from American precedents in interpreting analogous provisions of our Constitution, as we have done in other cases in the past.

Although there is no provision in the Constitution expressly investing either House of Congress with power to make investigations and exact testimony to the end that it may exercise its legislative functions advisely and effectively, such power is so far incidental to the legislative function as to be implied. In other words, the 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 do possess it." xxx (At p. 45)

The framers of the present Constitution were not content to leave the power inherent, incidental or implied. The power is now expressed as follows:

"SEC. 21. - The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected."

Apart from the formal requirement of publishing the rules of procedure, I agree that there are three queries which, if answered in the affirmative, may give us cause to intervene.

First, is the matter being investigated one on which no valid legislation could possibly be enacted?

Second, is Congress encroaching on terrain which the Constitution has reserved as the exclusive domain of another branch of government?

And third, is Congress violating the basic liberties of an individual?

The classic formulation of the power of the Court to interpret the meaning of "in aid of legislation" is expressed in *Kilbourn v. Thompson*, 103 U.S. 168 (1880).

The House of Representatives passed a resolution creating a committee to investigate the financial relations between Jay Cooke and Co., a depository of federal funds and a real estate pool. A debtor of Jay Cooke and Co. Kilbourn, general manager of the pool refused to answer questions put to him by the Committee and to produce certain books and papers. Consequently, he was ordered jailed for forty-five days. He brought an action for false imprisonment and the Supreme Court decided in his favor.

Speaking through Justice Miller, the Court ruled:

"The resolution adopted as a sequence of this preamble contains no hint of any intention of final action by Congress on the subject. In all the argument of the case no suggestion has been made of what the House of

Representatives or the Congress could have done in the way of remedying the wrong or securing the creditors of Jay Cooke and Co., or even the United States. Was it to be simply a fruitless investigation into the personal affairs of individuals? If so the House of Representatives had no power or authority in the matter more than any other equal number of gentlemen interested for the government of their country. By fruitless we mean that it could result in no valid legislation on the subject to which the inquiry referred." (Kilbourn v. Thompson, id. at page 388)

The Kilbourn decision is, however, circa 1880. The world has turned over many times since that era. The same court which validated separate but equal facilities against charges of racial discrimination and ruled that a private contract may bar improved labor standards and social justice legislation has reversed itself on these and many other questions.

In *McGrain v. Daugherty*, 273 U.S. 135; 71 L. Ed. 580 [1927], the court went beyond the express terms of the Senate resolution directing the investigation of a former Attorney General for non-feasance, misfeasance, and malfeasance in office. It presumed that the action of the Senate was with a legitimate object.

"x x x Plainly the subject was one on which legislation could be had and would be materially aided by the information which the investigation was calculated to elicit. This becomes manifest when it is reflected that the functions of the Department of Justice, the powers and duties of the Attorney-General and the duties of his assistants, are all subject to regulation by congressional legislation, and that the department is maintained and its activities are on under such carried appropriations as in the judgment of Congress are needed from year to year.

"The only legitimate object the Senate could have in ordering the investigation was to aid it in legislating, and we think the subject matter was such that the presumption should be indulged that this was the real object. An express avowal of the object would have been better; but in view of the particular subject matter was not indispensable. In *People ex rel. McDonald v. Keeler*, 99 N.Y. 463, 52 Am. Rep. 49, 2 N.E. 615, where the Court of Appeals of New York sustained an investigation order by the House of Representatives of that state where the resolution contained no avowal, but disclosed that it definitely related to the administration of public office the duties of which were subject to legislative regulation, the court said (pp. 485, 487): 'Where public institutions under the control of the State are ordered to be investigated, it is generally with the view of some legislative action respecting them, and the same may be said in respect of public officers,' And again 'We are bound to presume that the action of the legislative body was with a legitimate object if it is capable of so construed, and we have no right to assume that the contrary was intended.' (*McGrain v. Daugherty* id., at page 594-595, Emphasis supplied)

The American Court was more categorical in *United States v. Josephson*, 333 U.S. 858 (1938). It declared that a declaration of legislative purpose was conclusive on the Courts:

"Whatever may be said of the Committee on the un-American activities, its authorizing resolution recites it is in aid of legislation and that fact is established for courts."

And since the matter before us is something we inherited from the American constitutional system, rulings from the decision of federal courts may be apropos.

(*Stamler v. Willis*, 287 F. Supp. 734 [1968])

"The Court cannot probe into the motives of the members of the Congress."

Barsky v. United States, 167 F. 2d 241 [1948]

"The measure of the power of inquiry is the potentiality that constitutional legislation might ensue from information derived from such inquiry."

"The possibility that invalid as well as valid legislation might ensue from an inquiry does not limit the power of inquiry, since invalid legislation might ensue from any inquiry."

United States v. Shelton, 148 F. Supp. 926 [1957]

"The contention of the defendant that the hearing at which he testified and from which the indictment arose was not in furtherance of a legislative purpose proceeds on the assumption that a failure to have specific legislation in contemplation, or a failure to show that legislation was in fact enacted, established an absence of legislative purpose. This argument is patently unsound. The investigative power of Congress is not subject to the limitation that hearings must result in legislation or recommendations for legislation."

United States v. Deutch (147 F. Supp. 89 (1956)

"Under the Constitution of the U.S., the Federal Government is a government of limited powers. The Congress, being the legislative branch of the Federal Government, is also clothed with limited legislative powers. In order, however, to carry its legislative powers into effect successfully, it has always been held that Congress has the power to secure information concerning matters in respect to which it has the authority to legislate. In fact, it would seem that Congress must secure information in order to legislate intelligently. Beyond that, the Congress has the right to secure information in order to determine whether or not to legislate on a particular subject matter on which it is within its constitutional powers to act."

- (Emphasis Supplied)

The even broader scope of legislative investigations in the Philippine context is explained by a member of the Constitutional Commission.

The requirement that the investigation be 'in aid of legislation' is an essential element for establishing the jurisdiction of the legislative body. It is, however, a requirement which is not difficult to satisfy because, unlike in the United States, where legislative power is shared by the United States Congress and the state legislatures, the totality of legislative power is possessed by the Congress and its legislative field is well-nigh unlimited. 'It would be difficult to define any limits by which the subject matter of its inquiry can be bounded.' (Supra, at p. 46) Moreover, it is not necessary that every question propounded to a witness must be material to a proposed legislation. 'In other words, the materiality of the question must be determined by its direct relation to the subject of the inquiry and not by its indirect relation to any proposed or possible legislation. The reason is that the necessity or lack of necessity for legislative action and the form and character of the action itself are determined by the sum total of the information to be gathered as a result of the investigation, and not by a fraction of such information elicited from a single question.' (Id. at 48)

On the basis of this interpretation of what 'in aid of legislation' means, it can readily be seen that the phrase contributes practically nothing towards protecting witnesses. Practically any investigation can be in aid of the broad legislative power of Congress. The limitation, therefore cannot effectively prevent what *Kilbourn v. Thompson* (103 U.S. 168 [1880]) characterized as 'roving commissions' or what *Watkins v. United States* (354 U.S. 178, 200 [1957]) labeled as exposure for the sake of exposure." (Bernas, Constitution of the Republic of the Philippines, Vol. II. 1st Ed., page 132).

Applying the above principles to the present case, it can readily be seen that the Senate is investigating an area where it may potentially legislate. The ease with which relatives of the President were allegedly able to amass great wealth under the past regime is a legitimate area of inquiry. And if we tack on the alleged attempts of relatives of a succeeding administration to duplicate the feat, the need for remedial legislation becomes more imperative.

Our second area of concern is congressional encroachment on matters reserved by the Constitution for the Executive or the Judiciary.

The majority opinion cites the decision in *Angara v. Electoral Commission*, 63 Phil. 139 (1936) explaining our power to determine conflicting claims of authority. It is indeed the function of this Court to allocate constitutional boundaries but in the exercise of this "umpire" function we have to take care that we do not keep any of the three great departments of government from performing functions peculiar to each department or specifically vested to it by the Constitution. When a power is vested, it carries with it everything legitimately needed to exercise it.

It may be argued that the investigation into the Romualdez - Lopa transactions is more appropriate for the Department of Justice and the judiciary. This argument misses the point of legislative inquiry.

The prosecution of offenders by the Department of Justice or the Ombudsman and their trial before courts of justice is intended to punish persons who violate the law. Legislative investigations go further. The aim is to arrive at policy determinations which may or may not be enacted into legislation. Referral to prosecutors or courts of justice is an added bonus. For sure, the Senate Blue Ribbon Committee knows it cannot sentence any offender, no matter how overwhelming the proof that it may gather, to a jail term. But certainly, the Committee can recommend to Congress how the situation which enabled get-rich-quick schemes to flourish may be remedied. The fact that the subjects of the investigation may currently be undergoing trial does not restrict the power of Congress to investigate for its own purposes. The legislative purpose is distinctly different from the judicial purpose.

In *Sinclair v. United States*, 279 U.S. 263, 73 L. ed. 692 (1928), leases of naval reservations to oil companies were investigated by the United States Senate. On a finding that certain leases were fraudulent, court action was recommended. In other words, court action on one hand and legislation on the other, are not mutually exclusive. They may complement each other.

"xxx 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. x x x" (*Sinclair v. United States*, id. at page 698).

In *United States v. Orman*, 207 F. 2d. Ed. 148 (1953), the court declared that it was pertinent for a legislative committee to seek facts indicating that a witness was linked to unlawful interstate gambling.

"The power of a congressional committee to investigate matters cannot be challenged on the ground that the Committee went beyond the scope of any contemplated legislation and assumed the functions of a grand jury. Where the general subject of investigation is one concerning which Congress can legislate, and the information sought might aid the congressional consideration, in such a situation a legitimate legislative purpose must be presumed." xxx

I submit that the filing of indictments or informations or the trial of certain persons cannot, by themselves, halt the initiation or stop the progress of legislative investigations.

The other ground which I consider the more important one is where the legislative investigation violates the liberties of the witnesses.

The Constitution expressly provides that "the rights of persons appearing in or affected by such inquiries shall be respected."

It should be emphasized that the constitutional restriction does not call for the banning or prohibition of investigations where a violation of a basic right is claimed. It only requires that in the course of the proceedings,

the right of persons should be respected.

What the majority opinion mandates is a blanket prohibition against a witness testifying at all, simply because he is already facing charges before the Sandiganbayan. To my mind, the Constitution allows him to interpose objections whenever an incriminating question is posed or when he is compelled to reveal his court defenses, but not to refuse to take the witness stand completely.

Arnault v. Nazareno, supra, illustrates the reticence, with which the court views petitions to curtail legislative investigations even where an invocation of individual liberties is made.

In *Arnault*, the entire country already knew the name of the presidential relative whom the Senate was trying to link to the Tambobong-Buenavista estates anomalies. Still, the Court did not interfere when *Arnault* refused to answer specific questions directed at him and he was punished for his refusal. The Court did not restrain the Senate when *Arnault* was sent to the national penitentiary for an indefinite visit until the name which the Senate wanted him to utter was extracted. Only when the imprisonment became unreasonably prolonged and the situation in Congress had changed was he released.

As pointed out by the respondents, not one question been asked requiring an answer that would incriminate the petitioners. The allegation that their basic rights are violated is not only without basis but is also premature.

I agree with the respondents that the sale of 39 Romualdez corporations to Mr. Lopa is not a purely private transaction into which the Senate may not inquire. If this were so, much of the work of the Presidential Commission on Good Government (PCGG) as it seeks to recover illegally acquired wealth would be negated. Much of what PCGG is trying to recover is the product of arrangements which are not only private but also secret and hidden.

I, therefore, vote to DISMISS the petition.`

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