

FIFTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

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SENATE  
P.S.R. No. 86

20 RE OF THE SENATE *pk*

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

EXPRESSING THE SENSE OF THE SENATE THAT THE OMBUDSMAN SHOULD STRICTLY COMPLY WITH THE PERIODS PROVIDED UNDER THE RULES OF COURT IN THE INVESTIGATION OF CASES REFERRED TO IT BY CONGRESS AND THAT THE OMBUDSMAN ACT SHOULD BE AMENDED ACCORDINGLY

WHEREAS, the Constitution, Art. 8, Sec. 15, paragraph 1 provides, "All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all lower courts";

WHEREAS, Memorandum Order No. 12 issued by the Department of Justice on 3 July 2000 provides that a sixty (60) day period shall be observed in the disposition of cases under preliminary investigation;

WHEREAS, Republic Act No. 6770, or the Ombudsman Act of 1989, Section 13 provides: "Sec. 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people;"

WHEREAS, Administrative Order No. 7, or the Rules of Procedure of the Office of the Ombudsman, Rule 2, Section 4, provides: "Procedure – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court...;"

WHEREAS, the Rules of Court provide for an even shorter time frame; Rule 112, Section 3, paragraphs (e) and (f) provide the rules for preliminary investigation, "(e) The investigating officer may set a hearing if there are facts and issues to be clarified from a party or witness. The parties can be present at the hearing but without the right to cross-examine. They may, however, submit to the investigating officer questions which may be asked to the party or parties concerned. The hearing shall be held within ten (10) days from submission of the counter-affidavits and other documents or from the expiration of the period for their submission. It shall be terminated within five (5) days; (f) Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial."

WHEREAS, the Constitution, Article 6, Section 21, 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";

WHEREAS, Committee Report No. 54, submitted jointly by the Blue Ribbon Committee and the Committee on Agriculture and Food on 1 March 2006 during the 13<sup>th</sup> Congress, recommended that the Ombudsman together with the Anti-Money Laundering Council scrutinize the voluminous documents concerning the fertilizer fund scam and to trace its flow from the Regional Field Units of the Department of Agriculture to the local officials and file charges against them, whether elected or appointed, for violation of the Anti-Graft and Corrupt Practices Act;

WHEREAS, during the 14<sup>th</sup> Congress, the following recommendations were submitted by the Senate to the Office of the Ombudsman:

- Committee Report No. 229 submitted by the Committee on Foreign Relations on 13 November 2008 recommended that the Ombudsman should prosecute the persons with apparent criminal liability in connection with the investigation on the undeclared cash carried by retired PNP Police Director Eliseo De La Paz in Russia;
- Committee Report No. 254, submitted by the Blue Ribbon Committee on 26 February 2009, also concerning the fertilizer fund scam, stated: "We urge the Ombudsman to decide on the cases which have been pending with them for nearly 1,300 days. The Ombudsman has *motu proprio* powers to conduct an investigation into wrongdoings of government officers. Had it exercised its powers more aggressively, the resolution of the Fertilizer scam and other issues related to it could have been yesterday's news. Alas, such is not the case here. And so now is the time for the law enforcement agencies and the prosecution arms of government to perform what it was originally tasked to do. The gross inaction by the Ombudsman is one that must not be allowed or tolerated by the people and by the leaders of this country. Certainly, and at the very least, the Senate will not tolerate the Ombudsman's criminal negligence. The Senate's primary constitutional function is to pass laws; surely we can concentrate on that. We cannot punish corrupt officials, we cannot send them to jail. However, when the people's cry for justice and resolution to these problems remain unheeded, unanswered, and unaddressed by the Ombudsman, we will cast shame on the shameful, step up to the plate, and act;"
- Committee Report No. 719 submitted jointly by the Committees on Economic Affairs and Public Works and Highways on 14 October 2009, concerning Senate Resolution No. 1413, recommended to the Ombudsman the prosecution of Road Board Chair Hermogenes Ebdane Jr. and other members of the Road Board, Executive Directors Rodolfo Puno and Danilo Valero of the Road Board Secretariat and its other members under the Anti-Graft and Corrupt Practices Act, the Anti-Plunder Act, and any other applicable laws;
- Committee Report No. 743 concerning the NBN-ZTE scandal, submitted by the Blue Ribbon Committee on 11 November 2009, recommended that several government officials be investigated for possible violations of the Anti-Graft and Corrupt Practices Act, where warranted, or be asked to explain satisfactorily to the public their lack of participation;

WHEREAS, despite the recommendations made by the Senate, the Office of the Ombudsman has failed to resolve them promptly;

WHEREAS, according to news reports, in an impeachment complaint filed by former Rep. Risa Hontiveros on 22 July 2010, the Office of the Ombudsman was described as "a place where complaints of official wrongdoing go to languish, wither, and [be] forgotten... The Ombudsman, under the stewardship of Gutierrez, has become alarmingly and unjustifiably passive in taking on prominent issues involving corruption and malfeasance at the highest level of government."

WHEREFORE, let it be expressed as the sense of the Senate that the Ombudsman should strictly comply with the periods provided under the Rules of Court in the investigation of cases referred to it by Congress;

BE IT FURTHER RESOLVED, that the proper amendment to the Ombudsman Act should be passed by Congress in order to reflect the periods provided in the Rules of Court. This shall serve as a clear guide in the disposition of cases before the Office of the Ombudsman.

Adopted,

*ack.*   
MIRIAM DEFENSOR SANTIAGO