

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

'04 JUN 30 P3:10

RECEIVED BY: 

S E N A T E

S. No. 252

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Introduced by Senator S. R. Osmeña III

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#### EXPLANATORY NOTE

Republic Act No. 7202, otherwise known as the Sugar Restitution Law, states that it is "the policy of the Government to reconstitute the losses suffered by the sugar producers due to actions taken by government agencies in order to revive the economy in the sugar-producing areas of the country".

Section 2 of the same law provides that: "whatever amount recovered by the Government through the Presidential Commission on Good Government or any other agency or from any other source and whatever assets or lands that may be recovered or already recovered, which have been determined to have been stolen or illegally acquired from the sugar industry shall be used to compensate all sugar producers from Crop Year 1974-1975 up to and including Crop Year 1984-1985 on a pro-rata basis."

More than four years after its enactment in February 29, 1992, the PCGG has yet to turn over to the sugar producers the compensation prescribed by the law, despite the compromise agreement entered into by the PCGG and Mr. Roberto S. Benedicto. In the compromise agreement with the PCGG in Civil Case No. 0009, Mr. Benedicto ceded in favor of the Government certain assets, both Philippine and foreign, including his shareholdings, rights and participation in a number of companies.

But this delay in the turnover of the Benedicto assets to the Sugar Restitution fund is not without logical basis. The PCGG maintains that it does not have the authority to determine which assets ceded by Mr. Benedicto are sugar-related since Section 2 of R.A. 7202 does not specify the person or agency which will do the determination.

Section 2-r of the Implementing Rules and Regulations of R.A. 7202 promulgated by the Bangko Sentral ng Pilipinas however states that: "Sugar Restitution Fund shall refer to the ill-gotten wealth recovered by the Government through the PCGG or by any other agency or from any other source within the Philippines or abroad, and whatever assets or funds that may be recovered, or

already recovered, which have been determined by PCGG or any other competent agency of the Government to have been stolen or illegally acquired from the sugar industry whether such recovery be the result of a judicial proceeding or by a compromise agreement.”

While the above-stated provision of the IRR of the Sugar Restitution Law specifically delegates to the PCGG the authority to determine which of the Benedicto assets were illegally acquired from the sugar industry, the PCGG questions the validity of the provision on the grounds that the “BSP cannot authorize the PCGG to make the determination because the law is silent” and that “ No other agency outside the legislature can fill up the hiatus created by R.A. No. 7202 as the same will constitute an encroachment upon the powers of the legislative branch of the government.”

The Department of Justice, in its Opinion No. 21, S. 1995, tends to support the PCGG through the following:

“There is no law, administrative determination or court decision which expressly and categorically declares the assets in question to be *ill-gotten from the sugar industry*. On the contrary, the Supreme Court, in upholding the validity of the compromise agreement between Roberto S. Benedicto and PCGG explicitly declared that ownership of the assets was transferred to the Government not because PCGG ‘won its cases in the courts and the true ownership or illegal acquisition has been definitely established. x x x Ownership has been transferred because of the compromise agreement.’ (Republic vs. Sandiganbayan, 226 SCRA 314)”

In the same opinion, the DOJ goes on further to say that “ there is no extant law which designates” a body or agency to determine assets as illegally obtained from the sugar industry. The PCGG Charter (E.O. No. 1 and subsequent E.O.’s) and R.A. 7202 does not authorize the PCGG to make such determination.

The DOJ, citing U.S.T. vs. Board of Tax Appeals, 93 Phil. 376; U.S. vs. Tupasi Molina, 29 Phil. 119, states that, “it is a settled rule that regulations promulgated by an administrative agency cannot amend or expand the provisions of the law or embrace matters not covered by the statute.”

Opinion 21, S. 1995 goes on to say that, “it is likewise settled that an administrative agency, like the PCGG, has only such powers as are expressly granted to it by law and those that are necessarily implied in the exercise thereof (Republic vs. Court of Appeals, 200 SCRA 225, citing cases). The power to determine whether a particular asset recovered by the PCGG is *ill-gotten* or not has not been expressly granted to the PCGG, nor may such power be implied from its express powers.”

It is the intention of this bill to facilitate the restitution of the sugar producers, as intended by Republic Act No. 7202, by vesting on the PCGG the authority to determine which of the Benedicto assets were illegally acquired from the sugar industry.

The antecedent arguments and counter-arguments have contributed to the justifications for this bill, which should lay the issue at rest and expedite the implementation of the Sugar Restitution Law.

In view of the foregoing, approval of this bill is earnestly requested.

*S. Osmena*  
**SERGIO OSMEÑA III**  
Senator

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SENATE

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AN ACT  
AMENDING SECTION 2 OF REPUBLIC ACT NO. 7202, ENTITLED 'AN ACT  
AUTHORIZING THE RESTITUTION OF LOSSES SUFFERED BY SUGAR  
PRODUCERS FROM CROP YEAR 1974-1975 TO CROP YEAR 1984-1985 DUE  
TO THE ACTIONS OF GOVERNMENT-OWNED AND CONTROLLED AGENCIES'

*Be it enacted by the Senate and House of Representatives of the Philippines  
in Congress assembled :*

1        **SECTION 1 .** *Section 2 of Republic Act No. 7202 is hereby amended to*  
2 *read as follows:*

3        " Section 2. Whatever amount **OR ASSETS** recovered by the  
4 Government through the Presidential Commission on Good  
5 Government (**PCGG**) or any other agency or from any other source  
6 and whatever assets or lands that may be recovered, or already  
7 recovered, which have be en determined **BY THE PCGG OR ANY**  
8 **OTHER COMPETENT AGENCY OF GOVERNMENT** to have been  
9 stolen or illegally acquired from the sugar industry shall be used to  
10 compensate all sugar producers from Crop Year 1974-1975 up to and  
11 including Crop Year 1984-1985 on a pro rata basis."

12        **SECTION 2. Repealing Clause.** - All laws, presidential decrees, executive  
13 orders, rules and regulations or parts thereof which are inconsistent with this Act are  
14 hereby repealed or modified accordingly.

1        **SECTION 3. *Effectivity.*** - This Act shall take effect upon its approval.

Approved,