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SENATE

P.S. Res. No. 1265

Introduced by Senator Antonio "Sonny" F. Trillanes IV

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO INVESTIGATE, IN AID OF LEGISLATION, THE ALLEGED SYSTEM OF 'JUSTICE FOR SALE' AT THE COURT OF APPEALS AND ELSEWHERE, AND OTHER RELATED ANOMALIES IN THE JUDICIARY, WITH THE END IN VIEW OF DETERMINING COMPLIANCE WITH EXISTING LAWS, AND ENACTING REMEDIAL LEGISLATION TO UPHOLD THE COMPETENCE, INDEPENDENCE AND INTEGRITY OF THE JUDICIARY AND REINFORCE PUBLIC CONFIDENCE IN THE JUDICIAL SYSTEM

WHEREAS, Article II, Section 27 of the 1987 Constitution provides that *"the State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption"*;

WHEREAS, Section 1 of Republic Act No. 3019, otherwise known as the, Anti-Graft and Corrupt Practices Act states:

"It is the policy of the Philippine Government, in line with principle that a public office is a public trust, to repress certain acts of public offices and private persons alike which constitute graft or corrupt practices or which may lead thereto," and Section 3(e) of the same law includes among the acts defined as prohibited corrupt practices of public officers the *"Causing [of] any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence"*

WHEREAS, Section 1 of Canon 1 (Independence) of the New Code of Judicial Conduct states that: *"Judges shall exercise the judicial function independently on the basis of their assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous, inducement and pressure, threat or interference, direct or indirect, from any quarter or for any reason"*;

WHEREAS, there are persistent media reports that corruption is allegedly widespread and prevalent in the Judiciary; that at the Court of Appeals (CA), some cases are purported to be decided not on merit but on how much a litigant is willing to pay, and Temporary Restraining Orders (TROs) are allegedly for sale¹;

WHEREAS, even former Associate Justice Hilarion Aquino admitted, in an interview, that corruption is not new in the judiciary. In fact, in 2008, former CA Associate Justice Vicente Roxas was relieved from office after he was found guilty of multiple violations of the canons of the Code of Judicial Conduct, grave misconduct, dishonesty, undue interest, and conduct prejudicial to the best interest of service; and another CA magistrate was meted with a two-

¹ Tulfo, R. (2013, June 8) *Honest Justices at Appeals Court*. Philippine Daily Inquirer. Retrieved from: <http://newsinfo.inquirer.net/422651/honest-justices-at-appeals-court>.

month suspension after he was found guilty of simple misconduct and conduct unbecoming of a justice of the CA²;

WHEREAS, just a few days ago, the Coalition of Filipino Consumers urged Chief Justice Maria Lourdes Sereno to probe allegations of corrupt practices in the Judiciary upon learning that some members of the CA have accepted money from ‘influential individuals’ with pending cases³;

WHEREAS, moreover, last year, a so called “*Ma’am Arlene*” was tagged as a big-time fixer in the judiciary – wining and dining and shouldering the out-of-town and hotel accommodation of judges; and that she is supposedly the counterpart of pork barrel scam mastermind Janet Lim Napoles in the Judiciary⁴;

WHEREAS, the latest controversy on the alleged unethical practices in the Judiciary involves the Court of Appeals: On March 10, 2015, the Office of the Ombudsman preventively suspended Makati Mayor Jejomar Erwin “*Junjun*” Binay, Jr. and other city officials, for six (6) months, without pay, in connection with the allegedly overpriced Makati Parking Building;

WHEREAS, said Joint Order was implemented by the DILG on March 16, 2015 by serving the suspension order from the Ombudsman against Mayor Binay; and hours after it was carried out, the Court of Appeals 6th Division issued a Temporary Restraining Order (TRO); however, the Ombudsman, the Department of Justice (DOJ) and the DILG found the TRO to be moot and academic since it was issued too late – the Ombudsman’s suspension order had been served and an acting mayor had been sworn in⁵;

WHEREAS, Solicitor General Raymund Rigodon, counsel for the DILG, said that the March 16 TRO should not be considered enforceable because the DILG had yet to receive the Php 500,000.00 peso cash bond that Mayor Binay was required to post⁶,

WHEREAS, on the other hand, the camp of Mayor Binay submitted a plea for a writ of preliminary injunction before the CA, with the end in view of enjoining the Ombudsman, DILG and all other representatives from enforcing the March 10 Joint Order to preventively suspend him;

WHEREAS, in response thereto, Ombudsman Conchita Carpio-Morales, citing the Ombudsman’s independence in undertaking administrative investigations on erring officials, filed a petition for certiorari in late March, asking the Supreme Court to stop Binay’s certiorari plea in the appellate court to stop his suspension. Morales’ petition said that the appellate court had committed grave abuse of discretion by issuing a TRO holding Binay’s six-month suspension in abeyance⁷;

² Balagtas, A.E. (2008, September 11) *Corruption in the judiciary exists - Philippine Judicial Academy*. GMA News. Retrieved from: <http://www.gmanetwork.com/news/story/119729/news/nation/corruption-in-the-judiciary-exists-philippine-judicial-academy>

³ *Group asks Sereno to probe alleged corruption in judiciary*. GMA News. (2015, April 6) Retrieved from: <http://www.gmanetwork.com/news/story/465230/news/nation/group-asks-sereno-to-probe-alleged-corruption-in-judiciary>

⁴ Rufo, A. (2013, December 19) *Ma’am Arlene and her diversified business interests*. Retrieved from: <http://www.rappler.com/newsbreak/46083-arlene-diversified-business-interests>

⁵ Casauay, A. (2015, April 1). *CA submits Binay TRO, contempt petitions for resolution*. Retrieved from: <http://www.rappler.com/nation/33649-ca-binay-tro-contempt-resolution>

⁶ Merueñas, M. (2015, March 31) *Govt lawyer to CA: TRO vs. Junjun Binay suspension not enforceable*. GMA News Online. Retrieved from: <http://www.gmanetwork.com/news/story/462058/news/nation/govt-lawyer-to-ca-tro-vs-junjun-binay-suspension-not-enforceable>

⁷ Aning, J.A., et.al. (2015, April 8). *SC to hear Ombudsman petition vs CA in Binay case*. Philippine Daily Inquirer. Retrieved from: <http://newsinfo.inquirer.net/684162/sc-to-hear-ombudsman-petition-vs-ca-in-binay-case>

WHEREAS, on April 06, 2015, Court of Appeals Associate Justices Jose Reyes Jr., Francisco Acosta and Eduardo Peralta Jr. of the sixth division issued an extended stay order for an indefinite period against the preventive suspension by the Ombudsman; the appellate court erased all doubts about its intent by issuing a writ of preliminary injunction in Mayor Junjun Binay's favor. The writ extended the 60-day TRO and placed Binay's suspension on hold until the court has ruled with finality on his certiorari petition⁸.

WHEREAS, serious allegations have recently surfaced that the Binay camp paid off certain CA Justices to rule in their favor. According to reliable sources privy to the matter, a lawyer by the name of *Pancho Villaraza* facilitated the transaction and talked to Associate Justices Reyes and Acosta, and each of them allegedly received Twenty Million Pesos (Php 20,000,000.00) for the TRO they issued. When the Ombudsman, DILG and DOJ did not recognize the TRO, a second transaction was allegedly consummated, with Associate Justices Reyes and Acosta allegedly receiving an additional Five Million Pesos (Php 5,000,000.00) each upon the issuance of a writ of permanent injunction. This was purportedly the reason why the concerned CA division issued the writ of preliminary injunction with undue and inordinate haste, long before its TRO is supposed to elapse;

WHEREAS, based on published reports⁹, Atty. F. Arthur "*Pancho*" Villaraza appears to be a very powerful and influential lawyer, who is allegedly a known political operator with deep links among politicians as well as members of the judiciary and the prosecution service, most of whom he once helped to be appointed or promoted either as Prosecutors, Judges or Justices, particularly during the administrations of former Presidents Fidel V. Ramos and Gloria Macapagal-Arroyo.¹⁰

WHEREAS, also according to published reports, Atty. F. Arthur "*Pancho*" Villaraza is also known as the personal counsel of former Pres. Gloria Macapagal-Arroyo who was allegedly involved in the harassment of journalists¹¹ because of their reports on the US\$20 Million or Php1 Billion extortion attempt on a German airport firm, Fraport AG, in 2003.¹² Atty. Villaraza is likewise known as a big-time political contributor, having personally contributed some P30 Million to the campaign of former Pres. Arroyo in 2004.¹³

WHEREAS, likewise according to several published accounts, Atty. Villaraza's decision to join and support the Presidential campaign of VP Jejomar C. Binay was one of the principal reasons which precipitated his much talked-about falling-out with his former partners¹⁴ and the eventual dissolution of their decades-old law partnership.¹⁵ In fact, according to a letter of his former law

⁸ *Ibid.*

⁹ De Vera, Ruel S., "*Firmly on top*", Philippine Daily Inquirer, 03 June 2012; also published in Inquirer.net - <http://lifestyle.inquirer.net/50737/firmly-on-top>

¹⁰ De Vera, Ruel S., *Op Cit.*

¹¹ Libel Watch, "*Donations, pledges pour in for Tribune editor's libel defense pour in*", Pinoypress.net, 04 June 2004; The article may be viewed at: http://www.zoominfo.com/CachedPage/?archive_id=0&page_id=568418913&page_url=http://www.pinoypress.net/readings/libel_watch.htm&page_last_updated=2004-01-08T21:47:46&firstName=F&lastName=Villaraza

¹² Cacho-Olivares, Ninez, "*GMA aides, fixers' in P3.7B extort try*", Daily Tribune, 07 May 2003.

¹³ Philippine Center for Investigative Journalism (PCIJ), "*Big donors, serial donors in Phil elections*", May 03, 2013; <http://pcij.org/stories/lew-top-traders-elite-clubs-law-firms-bet-on-pull-bets/>

¹⁴ Agustin, Victor C.: "*Kim Henares' tax bite threatens to chew of Cruz Marcelo lawyers*", Money Go Round, Philippine Star, 20 January 2014, Page B-4; <http://digitaledition.philatstar.com/articles/2014-01-20>

¹⁵ The Inquirer Staff, "*The Firm' speaks*", Philippine Daily Inquirer, 26 December 2014; <http://business.inquirer.net/184021/the-firm-speaks>

partners to the editors of a broadsheet newspaper, said information purportedly originated from Atty. Villaraza himself.¹⁶

WHEREAS, in view of all of the foregoing very alarming information and assertions, there is an urgent and imperative necessity to conduct an investigation into these very damaging allegations against members of the Judiciary and the Judicial System as a whole;

WHEREAS, it is incumbent upon the Legislature, as one of the three separate but co-equal branches of the Government, under the *system of checks and balances* established and embedded in the Constitution¹⁷, to look into and investigate such alleged abuses and/or corrupt practices by the other branches of Government, particularly when the concerned branch of Government has failed to act thereon, and to ensure that the aforementioned anomalies are publicly exposed and addressed promptly and effectively through penal and remedial legislation;

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved by the *Philippine Senate*, to direct the Committee on Justice and Human Rights and/or other appropriate committees of the Senate to investigate, inquire and look into, in aid of legislation, the alleged system of "*Justice for Sale*" at the Court of Appeals and elsewhere, and other related anomalies in the Judiciary, with the end in view of determining compliance with existing laws, and enacting penal and remedial legislation to address the issue and to uphold the competence, independence and integrity of the Judiciary, and reinforce public confidence in the Judicial System.

Adopted,


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹⁶ Mailbox: "*Libelous articles of Mr. Victor C. Agustin*", Philippine Star, 18 December 2014;
<http://www.philstar.com/business/2014/12/18/1403733/mailbox-libelous-articles-mr-victor-c-agustin>

¹⁷ See: *Javellana v. Executive Secretary* (G.R. L-36142 prom. 31 March 1973) where the Supreme Court *en banc* declared that:

*"This principle of separation of powers under the presidential system goes hand in hand with the **system of checks and balances**, under which each department is vested by the Fundamental Law with some powers to forestall, restrain or arrest a possible or actual misuse or abuse of powers by the other departments. Xxx" [Underscoring supplied]*