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

RECEIVED BY:                     

SENATE  
P. S. R. No. 539

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Introduced by Senator Miriam Defensor Santiago

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RESOLUTION  
TO INQUIRE, IN AID OF LEGISLATION, ON THE REPORTED  
TAKEOVER, USING ARMS AND VIOLENCE, AND IN DEFIANCE  
OF A LEGITIMATE COURT ORDER, OF THE OPERATION OF THE  
SAN FERNANDO SEAPORT AND SURROUNDING AREAS  
BY THE DENR ENVIRONMENTAL MANAGEMENT BUREAU,  
AND MEMBERS OF THE LA UNION PNP AND COAST GUARDS

WHEREAS, in 1999, the government entered into a preincorporation agreement (here known as Agreement), with the Poro Point Industrial Corporation (here known as Poro Point) and Bulk Handlers, Inc. (BHI) for the formation of a joint venture corporation. The government was represented by the Bases Conversion Development Authority (BCDA);

WHEREAS, under the Agreement, Paragraph 2.02, government leased to Poro Point for at least 25 years, renewable for another 25 years, the San Fernando seaport governing some 30 hectares; an industrial area of at least 50 hectares; and an adjacent possible reclamation area;

WHEREAS, in the same year, pursuant to the Agreement, paragraph 1.02, Poro Point assumed the operation, management, and administration of the seaport;

WHEREAS, in May 2000, the DENR granted an Environmental Clearance Certificate (ECC) to Poro Point;

WHEREAS, the Agreement was repeatedly upheld by the Office of the Government Corporate Counsel (OGCC) and the Department of Justice (DOJ);

WHEREAS, in 2006, Poro Point and NHI filed a petition for declaratory relief with injunction against BCJA and Poro Point Management Corporation (PPMC). Consequently, the RTC at San Fernando, La Union, issued a TRO and writ of preliminary injunction against the respondents;

WHEREAS, on 4 August 2006, allegedly **WITHOUT NOTICE OR HEARING**, the DENR Environmental Bureau (here known as Bureau) swooped down on the seaport, and served a Cease and Desist Order (CDO) purporting to be dated 25 July 2006, alleging that Poro Point had failed to secure a separate ECC;

WHEREAS, in a highly questionable and suspicious maneuver, the Philippine Ports Authority (PPA) immediately issued the next day, a Saturday, 5 August 2006, Memorandum Order No. 47 **DATED ON THE SAME DAY**, purportedly creating the PPA-San Fernando Port Services, supposedly authorizing the PPA to manage and operate the seaport, allegedly in compliance with a directive of the Secretary of Transportation and Communications;

WHEREAS, adding suspicion to suspicion, in addition to the above circular, PPA further issued Special Order No. 385-206 also **DATED ON THE SAME DAY**, designating Silverio Mangaoang as the manager of the seaport;

WHEREAS, still another memorandum, also **DATED ON THE SAME DAY**, instructed Mangaoang to effect the takeover of the port services through the PMO Special Takeover Unit;

WHEREAS, **ALSO ON THE SAME DAY**, PPMC issued a "Notice to Port Users" that PPA would be taking over the entire operations of Poro Point beginning 6 August 2006;

WHEREAS, media reported that these suspicious memoranda and notices were served by armed personnel and agents who forced their way into the seaport, resulting in allegedly uncontrollable violence and physical injuries;

WHEREAS, the media also reported that in the afternoon of 6 August 2006, the government agents allegedly destroyed equipment and issued threats of future use of force, and an unknown group threw rocks and other materials, which caused physical injuries to the regular workers inside the premises of the seaport;

WHEREAS, media reported that on 7 August 2006, government agents, allegedly using heavily armed men, forcibly entered the seaport by ramming down the gates and fences, provoking another round of violence;

WHEREAS, on 7 August 2006 in the afternoon, the RTC of San Fernando, La Union, issued a TRO against the government agencies involved;

WHEREAS, the armed government agents allegedly insolently and arrogantly told the court sheriff serving the TRO that such armed agents were beyond the power and jurisdiction of the courts;

WHEREAS, until the present time, the representatives of the government agents concerned – BCDA, PPMC, and PPA – continue to defy a valid and existing TRO issued by a court of justice, by relying on the presence of armed Coast Guards and PNP personnel;

WHEREAS, the TRO and injunction issued by the court do not appear to fall under the prohibitions of P.D. No. 605, which bans the issuance by courts of preliminary injunctions in cases of permits issued by public administrative officials, because P.D. No. 605 refers only to “the exploitation of natural resources;”

WHEREAS, neither does the TRO appear to fall under the prohibition of P.D. No. 1818, which involves only the operation of a public utility operated by the government;

WHEREAS, finally, the incidence of violence and apparent brutal flouting of the rule of law is indicative of a police state or a military state, without any

explanation of the legal basis for such unconstitutional, illegal, and immoral means;

WHEREFORE, be it resolved by the Senate, to direct the Committee on Environment and Natural Resources to inquire, in aid of legislation, on the alleged abusive behavior of the DENR Environmental Management Bureau; the Coast Guards assigned to La Union; and the PNP assigned to La Union; concerning the Poro Point controversy, in order emphasize the principle of judicial supremacy and the rule of law.

Granting without conceding that there are certain requirements for a legislative inquiry, *ex abundante cautela*, it is here stated that the legislation involved is the possible amendment of P.D. No. 605 and P.D. No. 1818, so as to balance the restriction on the judicial branch with a corresponding restriction on the executive branch; and that the inquiry will question the legal basis, if any, invoked by the DENR, PNP, and the Coast Guards in employing arms and grave threats against civilians, in apparent open defiance of a valid and existing court order.

Approved,

  
MIRIAM DEFENSOR SANTIAGO