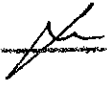


THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

7 FEB -7 P5:33

SENATE

RECEIVED BY: 

P. S. Res. No. 618

Introduced by Senator Franklin M. Drilon

RESOLUTION DIRECTING THE SENATE COMMITTEE ON FINANCE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE COMPROMISE AGREEMENT ENTERED INTO BY THE PHILIPPINE NATIONAL CONSTRUCTION CORPORATION (PNCC) WITH RADSTOCK SECURITIES LIMITED, FOR THE PURPOSE OF PROVIDING REMEDIAL LEGISLATION AND POLICY PARAMETERS ON COMPROMISE AGREEMENTS TO PROTECT GOVERNMENT ASSETS AND ENSURE THE JUDICIOUS USE OF GOVERNMENT FUNDS

Whereas, the Philippine National Construction Corporation (PNCC) is a government-owned and/or controlled corporation (GOCC) created by virtue of PD No. 1113 (dated March 31, 1977), attached to the Department of Trade and Industry pursuant to E.O. 331, and tasked with major construction works, especially in the field of infrastructure;

Whereas, PNCC owes the Government of the Republic of the Philippines P36,023,784,751.00, apart from P 3 Billion in taxes;

Whereas, on October 20, 2000, PNCC Board of Directors recognized and ratified the obligations of PNCC to the following entities :

- a) the Government of the Republic of the Philippines in the amount of P36,023,784,751.00
- b) Marubeni Corporation in the amount of P 10,743,103,388.00

Whereas, such obligation to Marubeni Corporation was not entered into the books of PNCC nor its predecessor – in – interest, CDCP Mining Corporation, and has in fact lapsed for more than 15 years having been incurred from 1978 to 1980;

Whereas, recognition of the liability to Marubeni, however, revived what appears to be a dead claim and has prevented PNCC from asserting that these obligations have prescribed;

Whereas, on 10 January 2001, Marubeni assigned its receivables from PNCC in favor of Radstock Securities Limited, an unknown business entity with a capitalization of only \$50,000.00, and on the same date informed PNCC of the said assignment ;

Whereas, five days after, Radstock Securities Limited filed a complaint for sum of money and damages with the Regional Trial Court (RTC), Mandaluyong City, to

collect on PNCC's guarantees on the unpaid loan obligations of CDCP Mining Corporation;

Whereas, on December 10, 2002, the RTC of Mandaluyong rendered a decision in favor of Radstock directing PNCC to pay the total amount of P13,151,956,528.00 with interest from October 15, 2001 plus P10,000,000.00 as attorney's fees;

Whereas, PNCC entered into a compromise agreement with Radstock Securities Limited on August 17, 2006 providing, among others, that the PNCC shall pay Radstock a compromise amount of P6,196,000,000.00, but in reality the assets to be transferred / paid are worth P 17,676,063,922.00, consisting of the following :

- 19 pieces of real estate properties, the bulk of which is 12.9 hectares in the Pasay City Financial Center, given an assigned value of only P4,195,000,000.00 which is only 70% of the total appraised value of P5.993 billion;
- 20% of the outstanding capital stock of PNCC that have a par value of P2.3 billion but given a market value of only P713 million; and
- 50% of PNCC's share in the gross toll revenue of the Manila North Tollways Corporation for 27 years (2008-2035) worth P9,382,374,922.00 but a 15% discounted rate was applied for a net present value of only P1,287,000,000.00;

Whereas, the Compromise Agreement has been approved by the Court of Appeals in a decision dated January 25, 2007;

Whereas, under this compromise agreement, government funds and property are being dissipated and such would virtually empty the coffers of PNCC to the prejudice of government ;

Whereas, given these terms of the compromise agreement, questions arise regarding the financial capability of PNCC to meet its obligation to the national government depriving the country of much needed revenue, with the country standing to lose P 36,023,784,751.00 owed by PNCC, apart from losing P 3 Billion in taxes;

Whereas, there is need to inquire whether government funds and property are amply protected and a review of policies must be conducted to ensure that government funds and property are not dissipated through these avenues : **Now, therefore, be it**

RESOLVED, to direct, as it hereby directs, the Senate Committee on Finance to conduct an inquiry, in aid of legislation, into the compromise agreement entered into by the PNCC with Radstock Securities Limited, for the purpose of providing remedial legislation and policy parameters on compromise agreements to protect government assets and ensure the judicious use of government funds.

ADOPTED,


FRANKLIN M. DRILON