

[ADMINISTRATIVE ORDER NO. 122, March 30, 1989]

REPRIMANDING AND WARNING AMBASSADOR ROSALINDA DE PERIO-SANTOS AND SUSTAINING ASSIGNMENT ORDER NO. 58/88 OF THE SECRETARY OF FOREIGN AFFAIRS, DATED APRIL 27, 1988, RECALLING HER TO THE HOME OFFICE FROM HER POST AS PERMANENT REPRESENTATIVE TO THE PHILIPPINE MISSION TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA

This refers to the administrative case filed by Mr. Armando Maglaque, then Deputy Permanent Representative to the Philippine Mission to the United Nations and other international Organizations (MISUNPHIL) in Geneva, and some MISUNPHIL staff members against respondent Ambassador Rosalinda de Perio-Santos, then MISUNPHIL Permanent Representative, for "incompetence, inefficient, corrupt and dishonest activities, rude and uncouth manners, abusive and high-handed behavior, irregular and highly illegal transactions involving funds of the mission."

On April 6, 1987, respondent requested permission from the Department of Foreign Affairs (DFA) to spend the Easter Holidays in New York, U.S.A., with her mother, brothers and sisters at no expense to the Government.

Two days later, respondent received DFA telex No. GE-83-87 instructing her to proceed immediately to Havana as a member of the Philippine Delegation to the UNCTAD G-77 Preparatory Conference from April 20 to 26, 1987.

On April 14, 1987, the two (2) tickets earlier reserved and the receipt for the payment thereof ("quittance") were picked up at the Tourwest Agency by respondent's housekeeper who later gave them to respondent.

On April 15, 1987, respondent left Geneva for New York en route to Havana. On the same day, the DFA approved her application for leave of absence with pay from April 27 to May 1, 1987.

After the Havana Conference, respondent spent her vacation in New York in accordance with her leave application as approved by the DFA and, thereafter, returned to Geneva.

On May 7, 1987, Cash Voucher No. CA-216/87 was prepared for reimbursement of the cost of one round-trip ticket (Geneva-New York-Geneva) in the amount of SFr. 1,597 (equivalent to P22,462) as shown by the receipt attached thereto, with respondent's certification written thereon and duly signed by her stating that -

"x x x I purchased the said round-trip ticket, which consists of two (2) one-way tickets, one from Geneva to New York and the other from New

York to Geneva, as shown in the attached receipt ("quittance") of payment to the travel agency." (Underscoring supplied).

Accordingly, the sum of SFr. 1,597 was paid to respondent, per Check No. UBS-4455589 dated May 7, 1987.

On September 16, 1987, the DFA sent a cable (GE-202/87) to MISUNPHIL, Geneva, requesting clarification on "why Mission paid for plane ticket of infant Pia de Perio-Santos (respondent's daughter) Geneva/New York/Geneva per CV 216/87 when she was not authorized to accompany her adopting mother at government expense." Respondent, in telex No. ZGE-373-87, replied that the DFA

"x x x please go over cv-ga-216/87 dated 7 May 1987. amount of sfr 1.597.00 represents cost of two tickets one from geneva to new york the other from new york to geneva each costing sfr 793.50 or usdlers 547.00. cost of lowest regular round-trip fare economy is sfr 2.996.00 or usdlers 2,955.60 at prevailing rate of exchange of sfr 1.4575 to usdlers 1.00 where tickets were purchased. in view travel undertaken during weekend fare discounted which resulted savings of sfr 1,399 or usdlers 959.65 to mission.

"misunphil never paid for trip of ambassador de perio-santos daughter to mexico which was paid from ambassadors personal funds. It seems secforaf deliberately misinformed. end." (Underscoring supplied.)

On September 21, 1987, the DFA required respondent to refund the amount representing her daughter's round-trip ticket, since DFA received a copy of the "facture" from the travel agency showing that the amount of SFr. 1,597 was in payment of (a) 1 billet adulte - Geneva/New York/Geneva SFr. 950, and (b) 1 billet enfant - Geneva/New York/Geneva SFr. 637: and that the sum of SFr. 637 represents the amount paid for the ticket of respondent's daughter Pia de Perio-Santos.

On September 24, 1987, respondent, instead of refunding only the sum of SFr. 637, returned the full amount of SFr. 1,597 for which she was issued Official Receipt No. 253942, dated September 24, 1987.

On October 5, 1987, respondent's Deputy, Mr. Armando Maglaque, and some MISUNPHIL staff members filed the various administrative charges mentioned at the outset against respondent, which were referred to Ambassador Luis Ascalon for initial investigation.

In a letter of October 8, 1987, respondent explained to the then Minister of Foreign Affairs the circumstances surrounding the purchase and use of the aforementioned tickets and claimed payment for one round-trip economy plane ticket (Geneva-New York-Geneva) in the amount of SFr. 2,996 to which she is entitled under paragraph 2 of the Foreign Service Personnel Manual on "Travel, Per Diems, and Daily Allowance Abroad," being an official member of the Philippine Delegation to the UNCTAD G-77 Conference in Havana. She submitted the voucher thereof.

On November 23, 1987, DFA recalled respondent for consultation. Thus, she came home on November 29, 1987.

On November 26, 1987, Ambassador Ascalon submitted his findings which, together with the complaints, were referred for preliminary investigation to a 5-man Ad Hoc Investigation Committee under the Chairmanship of Counsellor Victor Garcia III of the Office of the UNIO.

Respondent was likewise charged by Ambassador Eduardor Rosal before the Tanodbayan/Special Prosecutor for Estafa through Falsification of Public Document (TBP Case No. 87-03420) in connection with the payment to her of the sum of SFr. 1,597.00 in reimbursement of the plane tickets that she used in attending the Havana Conference. In a resolution of February 26, 1988, Tanodbayan Special Prosecution Officer III Humilde S. Ferrer recommended the filing of an information against the respondent for estafa through falsification of public document. However, in subsequent resolution of March 7, 1988, prepared by Tanodbayan Special Prosecution Officer III Wilfredp R. Orenca and approved by then Tanodbayan/Special Prosecutor Raul M. Gonzales, the said Ferrer resolution was disapproved and the case was dismissed for insufficiency of evidence. Motion for reconsideration of the said Orenca-prepared resolution was denied in the Tanodbayan's/Special Prosecutor's resolution of April 4, 1988.

The Ad Hoc Investigation Committee submitted its Memorandum, for the Chairman of the Board of Foreign Service Administration (BFSA), dated March 8, 1988, finding a prima facie case against the respondent for (1) dishonesty; (2) violation of existing rules and regulations; (3) incompetence and inefficiency; and (4) conduct prejudicial to the best interest of the service.

On March 17, 1988, the BFSA constituted a new investigating Committee of five (5) members, which deliberated, discussed and evaluated the evidence presented by the complainants and the answers of respondent who waived her right to formal hearing, per her answer of January 11, 1988, on condition that she be allowed to file a formal memorandum – which she did on February 3, 1988.

The Vice-Chairman (Amb. Pastores) and two members (Atty. Pineda and Amb. Garrido) of the new investigating Committee signed a Memorandum for the BFSA finding respondent liable for misconduct but recommending dismissal of the charges of (1) violation of existing regulations, (2) incompetence and inefficiency, and (3) conduct pre-judicial to the best interest of the service; accordingly, recommended that respondent be reprimanded against a repetition of the act which led to the administrative case against her; and that, since the administrative case had affected her continued assignment in Geneva, respondent be reprimanded and recalled to Manila. One member (Amb. Araque) dissented only with respect to the recommended penalty, as he thought that the penalty should include a six-month suspension. The Chairman (Atty. De Vera) dissented and, therefore, submitted a separate Memorandum, dated April 20, 1988, finding all charges against respondent "to be unmeritorious."

On April 22, 1988, the BFSA met en banc to consider the aforesaid memorandum-report of the new Investigating Committee. The BFSA, through its Chairman (First Undersecretary of Foreign Affairs Jose D. Ingles) submitted its Memorandum for the Secretary of Foreign Affairs (SFA), dated April 26, 1988, dismissing the charges of (a) violation of existing rules and regulations, (b) incompetency and inefficiency, and (c) conduct prejudicial to the best interest of the service, for lack of merit; but finding respondent liable for misconduct for claiming reimbursement and receiving

payment for the full amount of SFr. 1,597 stated in the receipt ("quittance") that she submitted to support Cash Voucher No. CA-261/87, despite the fact that the amount of SFr. 637 thereof represents the cost of the round trip-ticket of her 10-year old daughter.

On April 27, 1988, the SFA rendered his letter-decision, addressed to the respondent:

"I wish to inform you that upon recommendation of the Board of Foreign Service at its meeting en banc on April 22, 1988, based on the report of the investigating Committee, you have been found guilty of misconduct in connection with your misrepresentation in Cash Voucher No. 216/87, dated 7 May 1987, claiming reimbursement of SFr. 1,597.00 which you certified to be the cost of your round trip ticket Geneva/New York/Geneva.

"The Department by cable dated 16 September 1987 requested clarification why the Philippine Mission in Geneva paid for the plane ticket of your adopted daughter included in Cash Voucher No. 216/87. Your reply cable on the same day reiterated that the tickets for which you claimed reimbursement were for yourself alone and did not include your daughter. The department nevertheless required you to reimburse the amount of SFr. 647 which was the corresponding fare for your adopted daughter as shown by the receipt of the travel agency.

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|----|---------------|--------------------------|--------------------|
| "1 | billet adulte | - Geneva/New York/Geneva | SFr. 950 |
| "1 | billet enfant | - Geneva/New York/Geneva | <u>SFr. 647</u> |
| | | | <u>SFr. 1,597?</u> |

"Notwithstanding your refund of the amount corresponding to your adopted daughter's fare, the Board found you guilty of the lesser offense of misconduct rather than the offense charged of dishonesty.

"I concur in the finding of the Board of its investigating Committee that you are guilty of misconduct, as well as in the recommended penalty.

"In view thereof, you are hereby reprimanded and warned against a repetition of the act for which you were found guilty. In addition, you are hereby recalled to the Home Office, effective immediately." (Underscoring supplied).

Respondent filed a petition for reconsideration, dated May 16, 1988, which was resolved by the SFA in his resolution of June 1, 1988, as follows:

"This refers to your letter dated 16 May 1988 requesting for reconsideration of our decision finding your client Ambassador De Perio-Santos, guilty of misconduct with penalty of reprimand with a warning, and recall to the Home Office.

"1. Upon review of the records, we find no merit in your allegation that the Investigation Committee designated by the Board of Foreign

Administration was illegally constituted. The Civil Service Law as amended as well as the rules and circulars promulgated under said law do not expressly prohibit the designation of a committee to conduct investigation of administrative charges against a public official. On the other hand, the Civil Service Law expressly authorizes the disciplining authority or his authorized representative to conduct administrative investigation for the purpose. The power to conduct administrative investigation can be delegated and such delegation is not contrary to due process. (Hernando vs. Francisco, 17 SCRA 82).

"2. We find no merit at all in your contention that the proceedings of the investigating Committee suffer from legal infirmity on the ground that two of the members of said committee are non-lawyers. We find no provision in the Civil Service law requiring all members of a Board of investigators be lawyers.

"3. We find some merit, however, in your contention that procedural due process was not fully complied with by the Board of Foreign Service Administration in finding her guilty of misconduct of which she was not specifically charged. While it may be said that misconduct may be necessarily included among other charges filed against your client, the fact that misconduct has been enumerated as a separate offense under Section 38 of P.D. 807, we have decided to give your client an opportunity to defend herself of the offense of misconduct. For this purpose, I have ordered the remand of the records of the case of your client, Ambassador Rosalinda de Perio-Santos to the Board of Foreign Service Administration for hearing thereof.

"The issues you have raised on whether your client had fully refunded the airplane fares in question will be considered anew by the Board during the hearing.

"The order of her recall to the home office still stands pending report of the Board of Foreign Service Administration on the investigation.

"Please be guided accordingly."

Thereafter, respondent's counsel, in a letter of June 23, 1988, sought the dismissal of the case on the ground that there is no specific charge against respondent for misconduct and, therefore, there is nothing to investigate or hear.

Respondent and her counsel, however, appeared during the June 30, 1988 scheduled hearing where they reiterated their arguments for the dismissal of the case.

On July 11, 1988, the SFA, upon the recommendation of the BFSA, denied the said respondent's motion to dismiss and directed the BFSA "to set the case for hearing to give (respondent) an opportunity to present (her) evidence on misconduct."

Due to respondent's refusal to attend the hearing set for the reception of her evidence on the charge of misconduct, the SFA, in his resolution of August 18, 1988, declared his decision of April 27, 1988, as "final and executory, effective