

Senate panel tags GMA, FG in ZTE case

By AUREA CALICA

The Senate Blue Ribbon committee has recommended the filing of graft charges against First Gentleman Jose Miguel "Mike" Arroyo and other personalities involved in the anomalous \$329-million national broadband network (NBN) contract with China's ZTE Corp.

In the same report, the committee recommended the further investigation of President Arroyo for her role in the approval of the controversial contract.

The committee, led by Sen. Richard Gordon, also sought the filing of charges against businessman Jose "Joy" de Venecia III and former government consultant Rodolfo Lozada Jr., the two whistle-blowers of the case.

The committee also recommended the filing of graft charges against former socio-economic planning secretary Romulo Neri, former elections chief Benjamin Abalos and Transporta-

tion and Communications Secretary Leonardo Mendoza, as well as Assistant Secretaries Elmer Saneja and Lorenzo Formosa.

Gordon said the committee also found substantial evidence to warrant the filing of charges against Deputy Executive Secretary Manuel Gaito and Environment and Natural Resources Secretary Lito Atienza for their alleged attempt to prevent Lozada from testifying at the Senate.

Gordon said Gaito and Atienza could be charged with violation of Article 150 of the

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Revised Penal Code.

The First Gentleman, through his lawyer Ray Roldan, said they have yet to receive a copy of the Senate report.

"I haven't seen the report but I would like to point out that there was a case filed by several individuals several months ago before the Office of the Ombudsman and the Ombudsman a few months ago came out with a resolution saying there is no evidence linking the First Gentleman (to the) case," Roldan told THE STAR.

Roldan said the Ombudsman, after reviewing evidence including the entire Senate transcript of the hearings, "found no evidence versus Atty. Arroyo beyond speculations and conjectures."

Roldan brushed aside the legal implications of the Senate report against Mr. Arroyo, saying it was only "recommenda-tory."

Roldan declared there is "no remedy" for any party to file a suit against Mr. Arroyo following the Senate report, since only the Ombudsman is authorized to handle such cases.

"We will let the process take its course," he said.

Roldan said the complainants must allow the Ombudsman to wrap up its investigations before resorting to any other legal remedy.

While he is not the lawyer of President Arroyo, Roldan

expressed the same opinion that there is no evidence that could pin her down.

The President's lawyer, Ramon Macalintal, could not be reached for comment.

The Blue Ribbon has yet to release the full 127-page committee report signed by Gordon, with Senate Minority Leader Aquilino Pimentel Jr., Senators Joliet Arroyo and Edgardo Angara as principal sponsors.

Out of the 17 members of the committee, nine senators have yet to sign the report in order to approve the committee report.

The on-and-off investigation began in September 2007 and was concluded last September after 13 days of grueling hearings, four technical working groups and 41 witnesses.

'Lots to answer for'

The committee report said the Office of the Ombudsman should take the initiative of investigating the President over her role in the ZTE deal.

"The President has lots to answer for. The Office of the Ombudsman is wrong in merely dismissing the case against the President on the mere pretext of presidential immunity from suit. The Ombudsman must make a finding and forward it to the House of Representatives," the report said.

The committee noted Mrs. Arroyo enjoys immunity from

suit and can only be charged after her term ends on June 30, 2010.

Nonetheless, the committee said the Ombudsman has the constitutional duty to investigate impeachable officers, including the President.

"What the Ombudsman should have done was to investigate and make findings to transmit to the House, if an impeachment would have been warranted, rather than a blanket statement of exculpation because of supposed immunity," the report said.

Press Secretary Jorge Remonde said President Arroyo did what she had to do after the anomaly came out in the open.

"It is not true that the President did not act on the report of (Neri) that there was an attempt to bribe him. The President ordered Interior Secretary Ronaldo Puno to investigate through the PNP (Philippine National Police)," Remonde said.

Remonde added Puno ordered the PNP to conduct the probe but the result was still inconclusive.

"Puno reported to the President that there was no basis to file charges against anyone at that time," Remonde said.

Gordon, however, said the findings of the committee revealed the President did not act accordingly even after she was informed by Neri of the bribery attempt by Abalos.

Neri, who was then the NEDA chief handling the approval of government projects, testified at the Senate that Abalos offered him P200 million

to approve the deal. After confirming the bribery attempt, Neri has refused to comment further on the issue, claiming he has said all he knows about the contract when he testified before the Senate in September last year.

Neri repeatedly shot down calls for him to disclose the details of his conversations with Mrs. Arroyo on the matter by invoking executive privilege.

Gordon said the President simply allowed the anomaly to go through.

"In the middle of it all, as President who was not able to control and discipline her own men as they fight over their kickbacks, she kept her silence in the midst of the corruption—accepting and condoning the deal," Gordon said.

"You could see the litany of errors on the part of the President, apparently she was not able to crack the whip on her people," Gordon said.

The Senate committee explained the First Gentleman should be charged with violations of Section 4 (a) and 5 of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, particularly against private individuals involved in "business, transaction, application, request or contract with the government."

Gordon said the Arroyos, along with their speaker Jose de Venecia Jr., went to Shanghai in China, even played golf and had lunch with ZTE officials on Nov. 2, 2006.

It was during that visit when the scandal broke out that the

NBN deal was being rigged to favor several government officials, he said.

Gordon stressed the President should explain her meeting with ZTE officials.

In March 2007, De Venecia's son Jose broke open the anomaly when he implicated Mr. Arroyo for allegedly trying to bully him from pursuing the NBN contract in favor of ZTE.

The younger De Venecia testified that Mr. Arroyo pointed a finger at him while telling him to "back off" from pursuing the NBN project.

De Venecia went on to testify that Abalos was acting as the broker of the NBN contract and was fronting for Mr. Arroyo.

Gordon explained the younger De Venecia should be charged with the same violation of Section 5 of RA 3019, just like the First Gentleman as private individuals.

He said the elder De Venecia should be charged for violation of Section 7 (d) of the Code of Conduct and Ethical Standards for Public Officials for meddling in the deal.

The committee said Abalos should be charged with violation Section 3 (a) of RA 3019 for "persuading, inducing or influencing another public officer to perform an act and (b) for directly or indirectly having financing or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest."

Lozada and Neri, on the other hand, should also be charged

for the same violations, the committee said.

The Senate committee added Abalos should also be charged with violation of Article 212 of the Revised Penal Code for corruption of public officials.

Lozada will also have to face a case for alleged violation of the Civil Service Law for taking part in the negotiations when he was chief of the Philippine Forest Corp., an agency connected with the Department of Environment and Natural Resources.

Lozada was also the former consultant of the NBN contract that eventually went in favor of ZTE.

Lozada echoed the testimony of De Venecia III in implicating the First Gentleman and Abalos in the Senate inquiry over the deal.

Lozada had claimed he was tasked by Neri to "moderate the ground" of the proponents of the project since the cost was being floated to accommodate fat commissions among those breaking the deal.

Mendoza, Sorcio and Ferreras, on the other hand, were also recommended by the committee to be charged with violation Section 5 (d) of RA 3019 for "directly and indirectly having financing or pecuniary interest in any business, contract, or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest."

— With Paulo Romero