

- A. The Bataan case turns on:
1. diligence in using available evidence
 2. will
- The commercial banks want securitisation but are basically bluffing.
- B. There is evidence Bataan contract with Westinghouse was procured by fraud. Fraud went to heart of contract. Philippine government should declare contract void ab initio and dare Westinghouse to sue. (That even on knowledge at the time no sane buyer or builder would have located plant in volcanic zone of faulted rock is corroboratory evidence of the fraud.)
- C. In this case the banks knew or with due diligence would have known the contract was tainted by fraud. I believe Senators have evidence they did know. Therefore, Philippine government can and should declare the loan contracts void ab initio because fatally flawed by basic fraudulent Bataan contract. The banks (especially USA Ex-ImBank) cannot claim to be innocent bystanders who knew nothing of fraud.
- D. Whether Philippine law would allow an individual (e.g. a Senator) to take a class action on behalf of tax-payers to force Estanislao to void the Bataan and the loan contracts I do not know. Plenty of Senators are lawyers and do know or could find out. If private prosecutions are possible, Estanislao and Governor could be prosecuted for estafa for making payments on contracts they knew or with due diligence would have known to be fraudulent.
- E. The secondary market lower price for Bataan paper tells what the banks (who deal on that market) think! They think a real risk the paper is fraudulent and totally irrecoverable. There is good reason to believe that over 1986-88 they had lawyers make briefs for banks to sue Westinghouse in USA when (as they then expected) Philippines repudiated loans as void ab initio.
- F. It is very unlikely banks would break off 'new' money (more accurately rescheduling) talks for more than a few months over repudiation of Bataan paper (much less over refusal to securitize).
- G. The problem is that the banks believe Philippines is the one country that will starve its people to pay banks! That is why Philippine

secondary market is usually well over 50% while Cote d'Ivoire is 6% (cents per dollar face value) and Nigeria usually around 20%. What Senate should be telling Estanislao is:

- a. negotiate on all commercial bank debt except -
 - repudiate Bataan
 - service post 1986 revolving trade credits per contract
- b. offer new paper with 18 to 36 months grace and 5 to 7 years to pay (alternative cash at 50% now)
- c. at 50% of face value of old paper and same interest rate
- d. negotiate IMF/World Bank loan to allow 50% cash now (i.e. pay 50 cents per \$ face).

Bank have taken reserves of 40% to 80% on this paper (near high end on Bataan). So they would be likely to accept if they believed Philippines meant business. Even "d" would reduce servicing cost sharply as Bank/Fund 8% odd interest on one half principle vs 10% now on full principle is a serious saving. And a 3 year grace, 10 years to pay term should be possible.

- H. The problem is that Central Bank, Treasury, Malacanang have bought the bankers' case and become its spokesmen in Philippines. Therefore bankers expect them to make concessions, cave in to threats.

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