MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 122

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 Eduardo 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 Wilfredo R. Orencia 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 Orencia-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.

"1 billet adulte - Geneva/New York/Geneva SFr. 950
"1 billet enfant - Geneva/New York/Geneva SFr. 647

SFr.1.597"

"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 immediately" but allowing respondent "to return to (her) post to wind up (her) affairs, including the termination of the lease contract for (her) residence in Geneva, but (she) must return to the Home Office not later than 30 September 1988."

From this resolution, respondent appealed to this Office, where it is docketed as O.P. Case No. 3903.

At the outset, it is timely to restate the Presidential prerogative on administrative disciplinary proceedings against principal

diplomatic officers who are all Presidential appointees, such as respondent. The principal diplomatic officers are Chiefs of Mission (CM) and Foreign Affairs Officers (FAO).

The President, upon recommendation of the SFA, may separate from the service a FAO for legal cause, after hearing before the Board of Foreign Service (BFS) pursuant to Section 1 (b) of Republic Act No. 708, as amended, or the Foreign Service Act. Republic Act No. 708 is silent on disciplinary action against a CM, including respondent. Section 19 of Executive Order No. 239, dated July 24, 1987, reorganizing the Department of Foreign Affairs, restates the rule on FAO. Executive Order No. 239 is also silent on CM cases.

Under the Revised Administrative Code, the President has disciplinary authority over Presidential appointees, including the authority to preventively suspend them (Secs. 64(b) and (c) and 694.) Presidential Decree No. 6, dated September 27, 1972, restated the disciplinary authority of the President over Presidential appointees.

This Office is aware of DFA regulations on administrative disciplinary proceedings against DFA personnel, such Sections 441 to 450 of the Foreign Service Code of 1983 and Ministry Order No. 12-85, dated June 5, 1985. These departmental regulations are, of course, subject to the superior administrative disciplinary authority of the President over Presidential appointees.

Accordingly, I hereby reiterate the established authority of the President to discipline all principal diplomatic officers, upon recommendation of the SFA, after hearing by the BFSA.

In the Office of the President (proper), conviction of a Presidential appointee, who is administratively charged, is embodied in an Administrative Order signed by the President; while his exoneration is embodied in a Resolution signed by the Executive Secretary "By authority of the President."

I hereby consider (1) the SFA's decisions of April 27 and August 18, 1988, as recommendations for the President and (2) respondent's appeal as her position paper against the SFA decisions consistent with the following ruling:

"Technical rules of court practice, procedure and evidence are not to be applied with rigidity in administrative proceedings, considering the nature of administrative bodies; the character of the duties they are required to perform; the purpose for which they are organized; and the persons who composed them - technical men but not necessarily trained law men." (Asprec vs. Itchon, L-21685, April 30, 1966, 16 SCRA 921, syllabus.)

Respondent contends that the SFA erred in finding her guilty of misconduct because she was never specifically charged of such offense.

This contention is not well-taken. Whatever defect, if there be any, in the proceedings below, the same was cured when the SFA, in a formal letter, required appellant to appear before the BFSA purposely to answer the charge of misconduct. It is, therefore, of no moment that the original complaint did not include the charge of misconduct, since the SFA's letter charging her therefor in itself constitutes a valid complaint for misconduct. It matters not that it was the SFA himself, and not the original complainants, who charged respondent with misconduct, since an administrative complaint can be initiated directly by the SFA in his capacity as Department Head (Sec. 37 (b), PD 807).

Parenthetically, when respondent declined to appear in the hearing scheduled by the BFSA for reception of her evidence on the specific charge for misconduct, she thereby effectively waived her rights to be heard. Consequently, she cannot now claim that she was denied of due process. It is settled that where counsel and client have chosen to shy away from a scheduled trial without cause or reason or excuse at all, the client has forfeited his right to be heard in his defense (Asprec vs. Itchon, supra, pp. 924-925.).

The principal issue herein is whether respondent's act of claiming and receiving reimbursement for the discounted round-trip tickets (Geneva-New York-Geneva), which includes the fare of an infant, per Cash Voucher No. CA-216/87 and attachments, constitutes a punishable administrative offense denominated as either dishonesty as originally charged, or misconduct as later charged.

Respondent herself accepts the definition of "dishonesty" in former Civil Service Commissioner Abelardo Subido's Disciplinary Rules and Procedures in the Philippines Civil Service (1976 Ed., pp.

41-42) "as absence of integrity; a disposition to betray, cheat, deceive or defraud; bad faith." (Citing Arca vs. Lepanto Consolidated Mining Company, CA G.R. 17679-R, Nov. 24, 1956, citing 27 C.J.S. 47.) For, indeed, "dishonesty" means "a disposition to lie, cheat or defraud; untrustworthiness; lack of integrity" (State ex. rel. Neal v. Civil Service Commission, 72 N.E. 2d 69. 71, 147 Ohio St. 430) and "signifies an intentional violation of the truth" (Godfrey vs. Godfrey v. Godfrey, 106 N.W. 814, 819, 127 Wis. 47, 7 Ano. Cas. 176); and is synonymous to "fraud" (Ex parte Drayton, 153 F. 986, 991), so that "whatever is dishonest is fraudulent in foro concientiae" (Idem.). Its meaning -

> "extends beyond acts which would be criminal and is not restricted to such conduct as imports a criminal offense; and it has been specifically defined as an absence of integrity, a disposition to betray, cheat, deceive, defraud, or deceive; bad faith, course of conduct generally characterized as lacking in principle, a disposition to defraud, deceive or betray; faithlessness, want of integrity in principle, or of fairness and straightforwardness; fraud. It may consist in an intentional violation of the truth, or any deviation from probity." (27 C.J.S., Dishonesty, p. 312).

On the other hand, misconduct involves a violation or a deviation from a fixed duty or definite rule of conduct, such as misfeassance, malfeassance, or mismanagement. (58 C.J.S., Misconduct, pp. 817-819). So it affects (a public officer's) performance of his duties as an officer and not as such only as affects his character as a private individual - (Lacson vs. Roque, L-6225, Jan. 10, 1953; 92 Pjil., 456, 465). Performance of duties necessarily affects an officer's functions or service or relations to the public, not to relations between the officer and the government, such as when the officer claims for reimbursement of her transportation expenses incurred during official mission, as in this case.

The facts on record are clear. Respondent requested, on May 7, 1987, reimbursement under Cash Voucher No. CA-216/87 of the cost of one (1) round trip ticket (Geneva/New York-Geneva) in the amount of SFr. 1,597 as shown by an attached receipt ("quittance")

from the Tourwest Agency. She certified that she "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." Hence, she was reimbursed, per Check No. UBS-4455589 dated May 7, 1987.

Respondent's certification is not true factually. She purchased two (2) discounted round-trip tickets for Geneva/New York-Geneva, not two (2) discounted one-way tickets for Geneva/New York and New York/Geneva, per the "facture" from the travel agency showing the two (2) billets: 1 billet adult (Geneva/New York/Geneva) and 1 billet enfant (Geneva/New York/Geneva).

The fact that an assertion is at war with the truth does not connote the idea that it was intentionally made because, conceivably, situations may exist which could bring up that assertion to the level of one given in good faith and, therefore, an inquiry should be made to determine the evidence proving that the false assertion was intentionally made. (Abaya vs. Villegas, L-25641, Dec. 17, 1966, 18 SCRA 1034, 1039.)

Precisely, the DFA requested clarification from respondent, per cable GE-202/87 of September 16, 1987, on why the Geneva Mission paid for the plane ticket of infant Pia de Perio-Santos. Respondent's answer, per telex ZGE-373-87, is revealing. Adding two (2) untrue allegations, respondent insisted that the "amount of SFr. 1,597 represents cost of two tickets one from Geneva to New York the other from New York to Geneva each costing SFr. 793.50" and that the Geneva Mission "never paid for trip of ambassador de perio-santos daughter to mexico which was paid from ambassador's personal funds." The "facture" from the travel agency showed the following cost of each of the two (1) round trip tickets (Geneva/New York/Geneva) - SFr. 950 for billet adult and SFr. 637 for billet infant.

While respondent advanced the money for the ticket of her daughter, she later claimed and received reimbursement for the amount of SFr. 1,597 reflected in the "quittance" from the travel agency, which included the cost of billet infant for SFr. 637, the cost of the discounted round-trip ticket (Geneva/New York/Geneva) of her daughter. The assertion that the Geneva Mission "never paid" for the billet infant is not true.

In submitting Cash Voucher No. CA-216/87, respondent did not attach (a) Facture No. 87/2996 addressed by the travel agency to respondent, which showed two (2) billets (Geneva/New York/Geneva) of 1 adult billet for SFr. 950, 1 billet infant (Geneva/New York/Geneva) for SFr. 637 and Taxes Aeroport for SFr. 10; and (b) the used tickets for the Geneva/New York/Geneva trip. Instead, she submitted (a) the "quittance" for SFr. 1,597 from the travel agency and (b) her own certification that varied the truth.

When confronted by the facts, respondent did not simply comply with the DFA request of September 16, 1987, for her to refund the reimbursed air fare (SFr. 637) of her daughter but refunded, on September 24, 1987, the entire reimbursed amount of SFr. 1,597 and asked for reimbursement, on October 8, 1987, of the amount of SFr. 2,996 as the economy air fare for herself for the Havana Conference. Respondent merely exacerbated her situation because reimbursement is for actual (SFr. 950 plus taxes aeroport), not probable (SFr. 2996), expenses. Savings in operational expenditures accrue to the government, not to the public officer, under Accounting and Auditing Rules and Regulations.

I find that respondent twice committed intentional misrepresentation of facts, namely: (a) when she claimed and received reimbursement, per Cash Voucher No. CA-216/87 and attachments, and (b) when she made her clarification in her telex ZGE-373-87. The attendant circumstances of the case support the conclusion that respondent <u>did</u> know that (a) the "quittance" represented the cost of two (2) round-trip tickets (Geneva/New York/Geneva) for herself and her daughter, not two (2) discounted one-trip tickets (Geneva/New York/Geneva) for herself alone; (b) she used two (2) billets for herself and her daughter for Geneva/New York/Geneva round-trip; and (c) the "facture" correctly represented her actual air travel expenses, <u>all</u> known by her at the time when she submitted her Cash Voucher No. CA-216/87 and/or her "clarification."

Considering all circumstances, respondent's intentional misrepresentation may be viewed as dishonesty: "absence of integrity; a disposition to betray, cheat, deceive; bad faith;" "a disposition to lie, cheat or defraud; untrustworthiness; lack of integrity;" or "an intentional violation of the truth." Accordingly, I hereby find respondent liable for dishonesty.

As to the appropriate penalty, I am disposed to be lenient. First, the economy fare would have been SFr. 2,996; hence, respondent effected savings for the government in the amount of SFr. 1,399. To be fair, respondent is entitled to be reimbursed in the amount of SFr. 950 plus taxes aeroport. Second, in her desire to bring along her daughter to New York, respondent wrongfully intended to charge the government for her daughter's fare upon the notion or impression that the government would even pay less had she taken the economy fare for herself as allowed by DFA rules and regulations. I consider the foregoing as mitigating circumstances in her favor. In addition, the refund made by respondent may be considered as a mitigating circumstance and, considering also her long length of government service since July 16, 1956, the penalty imposed in the SFA decision of April 27, 1988, may fairly be adopted.

I have also considered the Resolutions of the Tanodbayan/Special Prosecutor on March 7 and April 4, 1988, dismissing the charge of estafa through falsification of public document against respondent due to insufficiency of evidence. These resolutions do not make respondent less dishonest, nor free her from any administrative liability. A perusal of said two resolutions clearly illustrates that the matter therein treated, and disposed of, was the criminal aspect of the case, specifically the crime of estafa thru falsification of public document. And it is settled that an administrative disciplinary action "is entirely distinct and separate from the criminal action" (People vs. Anino, L-25997, May 25, 1968, 23 SCRA 870, 874).

Moreover, the Tanodbayan/Special Prosecutor is not the proper disciplining authority over respondent and, therefore, his resolutions have no binding or preclusive effect on the instant administrative case against the respondent, nor prevent the proper disciplining authority from rendering his decision on this case.

Finally, the SFA decision of April 27, 1988 seems to have imposed upon the respondent her recall as an additional penalty. It is to be pointed out in this connection that respondent's recall can be made by the President directly or through her alter ego the SFA, at any time for loss of trust and confidence. As a matter of fact, the SFA found necessity of issuing, on the same day he rendered said decision (April 27, 1988), Assignment Order No. 58/88 recalling respondent to the Home Office.

This is so because ambassadors, like respondent, are mere "agents" of the President (United States v. CurtissWright Export Corp., 299 US 304) since the President alone has the power to represent the country (See: Antieau, Modern Constitutional Law, Vol. II, Sec. 13:14, p. 563) or is "the sole organ" of the government in the field of international relations (United States vs. CurtissWright Export Corp., supra), and the only channel of communications between his country and foreign nations or the only legitimate organ of the government to open and carry on correspondence or negotiations with foreign nations, in matters concerning the interests of the country or of its citizens (Antieau, supra, Sec. 13:42, pp. 564-565). The provision of sub-section (c) [(3) A.ii)] of Section 449 of the Foreign Service Regulations of 1983 stating that -

> "ii No chief of mission, counselor or foreign service officer shall be allowed to serve more than two consecutive tours of duty abroad. Any such officer who completes two consecutive tours of duty abroad or a total of eight (8) years shall be required to serve in the home office for at least two years before he becomes eligible again for a foreign assignment. In no case shall he serve more than one tour of duty in the same post." (Underscoring supplied).

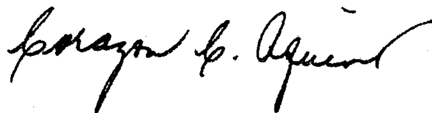
cannot be construed as prohibiting the recall of chiefs of mission like the respondent, before the completion of their tour of duty. The prohibition in said section is directed against a long stay abroad of chiefs of mission, among others, but not against their short stint abroad nor against their recall before the completion of their tour of duty. A contrary construction would not only negate or defeat the nature of their position as mere "agents" of the President but also allow them, particularly those who have lost the President's trust and confidence, to undermine the foreign policy adopted by the President as the sole organ of the government in the field of international relations.

WHEREFORE, respondent Ambassador ROSALINDA DE PERIO-SANTOS is hereby found guilty of dishonesty and is accordingly, after appreciating in her favor the above mitigating circumstances, meted

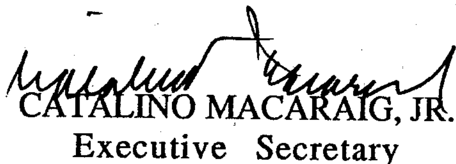
the penalty of reprimand with a warning that a repetition of the same or similar offense will be dealt with more severely, effective immediately.

Assignment Order No. 58/88 issued by the Secretary of Foreign Affairs on April 27, 1988, recalling to the home office said respondent as Permanent Representative to the Philippine Mission to the United Nations and other International Organizations in Geneva, is hereby sustained independently of the foregoing administrative finding, as a valid exercise of the President's inherent power to recall ambassadors as the exigencies of the service may from time to time require.

DONE in the City of Manila, this 30th day of March, in the year of Our Lord, nineteen hundred and eighty-nine.



By the President:



CATALINO MACARAIG, JR.
Executive Secretary