

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

'04 JUN 30 P4:31

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SENATE
S. No. 344

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE


Numerous cases of misrepresentation of subdivision owners, developers and realtors have been made against unsuspecting buyers who have been continuously victimized. Among the cases of misrepresentations are the following:

- (1) When parcels of land are being sold even if there is still no individual title available;
- (2) When the subdivision lot is being sold and it is still not ready for occupancy due to lack of provisions for water, light and telephone facilities, the roads are not yet cemented/asphalted or there are no proper drainages in place;
- (3) When a real estate mortgage has been constituted over a piece of property absent any knowledge of the buyer who pays the entire amount but is not issued the title over the said property;

Apart from these misrepresentations the buyers on installment have also to deal with contracts that create undue advantages in favor of the vendors. Examples of these unfair stipulations are the following:

- (1) That the liability for real estate taxes are immediately transferred to the buyer upon the execution of the contract;
- (2) That the contract price and interest rates shall be adjusted in any event of devaluation of Philippine Currency; and
- (3) That the seller may refuse to allow the buyer to take immediate possession of the property purchased unless all installments are paid.

Although R. A. No. 6552 otherwise known as the "Realty Installment Buyer Protection Act" is in effect, such law does not explicitly address many of the problems currently being encountered by the unsuspecting buyers. This bill seeks to plug these loopholes. Hence, the immediate enactment of this measure is earnestly requested.


SERGIO OSMEÑA III
Senator

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AN ACT

TO PROVIDE ADDITIONAL PROTECTIONS TO BUYERS OF REAL ESTATE ON INSTALLMENT PAYMENTS BY REQUIRING SUBDIVISION OR REAL ESTATE OWNERS TO HAVE AN INDIVIDUAL TITLE ON EVERY LOT AVAILABLE FIRST BEFORE OFFERING THE SAME FOR SALE, PROHIBITING ANY MORTGAGE, LIEN OR ENCUMBRANCE ON THE SAME, MAKING THE ANNOTATION ON THE TITLE OF THE CONTRACT TO SELL OR OF SALE MANDATORY, MAKING IT COMPULSORY FOR THE EXECUTION OF A DEED OF ABSOLUTE SALE AND THE DELIVERY OF THE TITLE TO THE BUYER UPON COMPLETION OF INSTALLMENT PAYMENTS, AND PROVIDING OTHER PROTECTIVE MEASURES, INCLUDING THE IMPOSITION OF PENALTY FOR VIOLATION THEREOF

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** No piece of real estate as contemplated in Republic
2 Act No. 6552, otherwise known as "Realty Installment Buyer Protection
3 Act" shall be offered for sale on installment payments unless it is covered
4 by a separate and individual Torrens Certificate of Title to constitute a real
5 estate mortgage or any lien or encumbrances.

6 **SEC. 2.** It shall be unlawful for any subdivision or individual owner
7 of any piece of real estate covered by any separate or individual Torrens
8 Certificate of Title to constitute a real estate mortgage or any lien or
9 encumbrance over the said title whenever the same has already been sold
10 to any third person on installment payments.

11 **SEC. 3.** Once the buyer and seller shall have signed the contract
12 to sell or contract of sale over any piece of real estate on installment

1 payments covered by a separate or individual Torrens Certificate of Title,
2 the said contract shall be immediately annotated by the seller at the back
3 of the said title on file with the Registrar of Deeds of the provinces or city
4 where the property is located: Provided, That if the seller should neglect or
5 refuse to do his obligation herein stated, the buyer shall have the absolute
6 right to have his contract annotated upon mere presentation of his contract
7 to sell or contract of sale.

8 **SEC. 4.** Payment of taxes shall remain to be the obligation of the
9 seller of real estate on installment payments notwithstanding the execution
10 of the contract to sell or contract of sale, but such obligation shall be
11 transferred to the buyer from the moment the latter shall have started
12 taking physical possession of the real estate purchased on installment
13 payments, or the title is transferred to the buyer.

14 **SEC. 5.** Upon the completion of the installment payments on any
15 piece of real estate, the seller, without the necessity of demand shall
16 within thirty (30) days therefrom execute in favor of the buyer, his heirs,
17 assigns and successors-in-interest an absolute deed of sale and deliver
18 the same to the latter together with the owner's duplicate certificate of title
19 over the real estate purchased.

20 **SEC. 6.** No subdivision lot shall be offered for sale to the public
21 unless all the water, electrical and telephone systems with provisions for
22 the installation of individual water and electric meters and telephone cable
23 lines, good drainage system that is duly approved by the municipal or city
24 engineer as the case may be, and especially the roads within the
25 subdivision have either been fully cemented or asphalted with the
26 measurement of at least six inches (6") thick and unless the said roads
27 have been donated to the municipality or city where the subdivision lots
28 are located which shall be obliged to immediately accept the said donation

1 and from then to assume the responsibility of maintaining and repairing
2 the same.

3 **SEC. 7.** Any buyer of real estate on installment payments as
4 contemplated in this Act shall have the right to take possession of the
5 property purchased upon the execution of the appropriate contract to sell
6 or contract of sale and the application for a building permit solely signed
7 by the buyer shall suffice for the issuance of a building permit to construct
8 any improvement on the property purchased.

9 **SEC. 8.** The contract price and interest rates stipulated in the
10 contract to sell or contract of sale of real estate on installment payments
11 shall remain constant and unaffected notwithstanding any artificial
12 depreciation or devaluation of the Philippine currency.

13 **SEC. 9.** Upon the effectivity of this Act, the Housing Land Use
14 Regulatory Board shall promulgate such rules and regulations as may be
15 necessary to implement and enforce the provisions of this Act.

16 **SEC. 10.** Any stipulation in any contract hereafter entered into
17 contrary to the provisions of this Act shall be null and void.

18 **SEC. 11.** Any act or omission in violation of this Act or any of the
19 pertinent rules and regulations of the Housing and Land Use Regulatory
20 Board shall be punishable by a fine of Ten thousand pesos (P10,000.00)
21 and by imprisonment of one (1) year.

22 **SEC. 12.** All laws, executive orders, decrees, rules or regulations
23 inconsistent with the provisions of this Act are hereby repealed, amended
24 or modified accordingly.

25 **SEC. 13.** This Act shall take effect upon its approval.

Approved,