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SENATE
S. B. No. 1230

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 8, Section 1 provides that:

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the other hand, Presidential Decree No. 1818, Section 1, states:

No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute, or controversy involving in infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arvester contracts, to prohibit any person or persons, entity or governmental official from preceding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

The rationale for the issuance of P.D. 1818 was that it is in the public interest to adopt such a prohibition against the issuance of restraining orders or injunction in these areas of activity which are critical to the economic development effort of the nation, in order not to disrupt or hamper the pursuit or essential government projects,

However, instead of achieving this desired result, P.D. No. 1818, since its issuance on 16 January 1981, has been used to mock the judicial system by serving as a protective mantle to

render inutile attempts to check possible government excesses, as we see in *City of Angeles vs. Court of Appeals*, 261 SCRA 107 (1996). Thus, the Supreme Court itself, in *Genaro R. Reyes Construction Inc. vs. Court of Appeals*, 234 SCRA 116, 126 (1994), “entertain[s] serious doubts in regard to the constitutionality of P.D. No. 1818.”

A very recent application of this “overprotective” mantle was the overturning of the Court of Appeals of the decision of a Makati Regional Trial Court judge to the collection of toll fees along the newly constructed Manila-Cavite expressway. The Court of Appeals said that “while the collection of toll fees is not an infrastructure project, it falls within the scope of P.D. No. 1818 as an activity necessary for the execution, implementation or operation of an infrastructure project of the government.”

P.D. No. 1818 should be amended because it violates the overbread doctrine. Citing *Zwickler vs. Koota*, 19 L ed 2d 444 (1967), in *Adiong vs. Comelec*, 207 SCRA 712, 719 (1992), the Supreme Court said that a statute is considered void if:

it offends the constitutional principle that a governmental purpose to control or prevent activities constitutionally subject to state regulations may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms.

In a series of decisions, this Court has held that even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved....

The purposes that P.D. No. 1818 sought to achieve could be attained by reasonable restrictions rather by an absolute prohibition. Such continued adherence to a contentious law has no place in our democracy.


MIRIAM DEFENSOR SANTIAGO

SECTION 2. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 3. *Effectivity Clause* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulations.

Approved.

FN: 1162