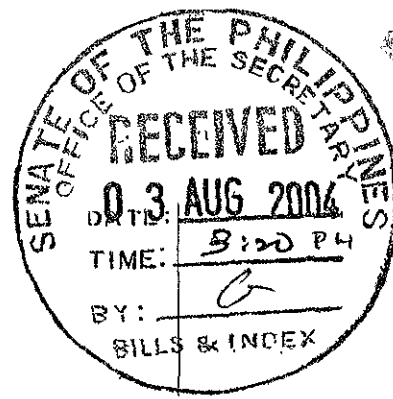


THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

SENATE  
S.B. No. 1619



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Introduced by Senator Miriam Defensor Santiago

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### EXPLANATORY NOTE

The Constitution, Article 12, Sections 2 and 3, provides:

Section 2. All lands of the public domain, waters...and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated...

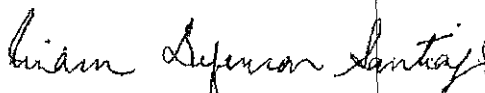
Section 3. ...Alienable lands of public domain shall be limited to agricultural lands. **Private corporations or associations may not hold such alienable lands of the public domain except by lease...**

Applying the Regalian doctrine, lands reclaimed from foreshore and submerged areas are owned by State. Under the constitution, waters form part of the public domain and are consequently inalienable. To become alienable, such reclaimed lands must first be classified as public agricultural lands under the category of alienable land of the public domain.

The principle that public lands cannot be sold without congressional consent, was first emphasized in the case of *Ignacio vs. Director of Lands* (108 Phil. 335) and amplified in the landmark case of *Laurel vs. Garcia* (187 SCRA 797) prohibiting the sale of the Roppongi property in Japan. The Supreme Court declared that:

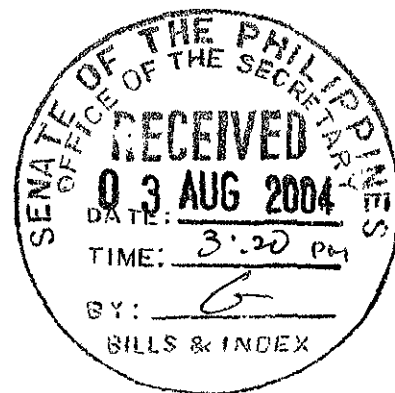
It is not for the President to convey valuable real property of the government on his or her sole will. Any such conveyance must be authorized and approved by a law enacted by the Congress. It requires executive and legislative concurrence.

This bill seeks to make malversation of reclaimed lands a crime punishable under the Revised Penal Code.

  
MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC )  
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Introduced by Senator Miriam Defensor Santiago

AN ACT  
MAKING THE MALVERSATION OF RECLAIMED LANDS A CRIME, AMENDING  
FOR THIS PURPOSE ARTICLE 217 OF ACT NO. 3815, OTHERWISE KNOWN AS  
THE PENAL CODE

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

SECTION 1. Article 217 of Act No. 3815, a.k.a. the Penal Code, is hereby amended by adding the following article to read as follows:

ARTICLE 217-A. *MALVERSATION OF RECLAIMED LANDS.* — ANY PUBLIC OFFICER WHO AIDS, COOPERATES WITH, OR OTHERWISE CONSENTS TO, THE TRANSFER OF RECLAIMED LANDS IN FAVOR OF ANY PRIVATE CORPORATION, WITHOUT A LAW PASSED BY CONGRESS AUTHORIZING ANY SUCH TRANSFER OF TITLE, SHALL BE PUNISHABLE BY A PENALTY OF *RECLUSION PERPETUA* TO DEATH, IF THE-AGGREGATE AMOUNT OR TOTAL VALUE OF THE LAND IS AT LEAST FIFTY MILLION PESOS (P50,000,000.00). IN THE IMPOSITION OF PENALTIES, THE DEGREE OF PARTICIPATION AND THE ATTENDANCE OF MITIGATING AND EXTENUATING CIRCUMSTANCES, AS PROVIDED IN THIS CODE, SHALL BE CONSIDERED BY THE COURT.

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 provision 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 circulation.

Approved,

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