

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

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SENATE  
S. No. 1877

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Civil Code, Article 737, states "the donor's capacity shall be determined as of the time of the making of the donation." The term "making must be interpreted to mean "perfection" of the donation, otherwise if "making" means "giving," Article 737 would in some cases be inconsistent with Article 734 which states that "the donation is perfected from the moment the donor knows of the acceptance by the donee."

An example of the perceived inconsistency is: "an insane donor donates on January 1. Donee accepts on January 5. Donor regains sanity on January 7. Donor knows of donee's acceptance on January 8, at a time when he was sane (capacitated). In this case, if we interpret "making" as "giving," the donation would be avoidable because of the donor's incapacity at the time he "gave" his property to the donee. On the other hand, if we consider "making" as "perfection," the donation would be valid because at the time of "making" (perfection), both parties had full capacity."

To avoid this contradiction, the language of Article 737 must be changed to make it clear and consistent with other provisions of the Civil Code on Donations.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
*for*

\* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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

OFFICE OF THE SECRETARY

10 JUL 22 1943

SENATE  
S. No. 1877

RECEIVED BY: ✓

Introduced by Senator Miriam Defensor Santiago

1 AN ACT  
2 AMENDING REPUBLIC ACT 386, ALSO KNOWN AS THE CIVIL CODE, ARTICLE 737,  
3 MAKING IT CONSISTENT WITH THE OTHER PROVISIONS ON DONATIONS

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

4 SECTION 1. Republic Act No. 386, also known as the Civil Code, Article 737, is hereby  
5 amended to read as follows:

6 "Article 737. [The donor's capacity shall be determined as of the time of the  
7 making of the donation] **AT THE TIME THE DONATION IS PERFECTED,**  
8 **BOTH OF THE DONOR AND THE DONEE MUST BE CAPACITATED."**

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

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

Approved,