

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

10 AUG 11 P2:37

SENATE
S. No. 2382

RECEIVED BY [Signature]

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Civil Code, Article 1723, declares the liability for damages in any structure by reason of defects in its construction or use of inferior materials. The limited coverage of this provision allows the engineer, architect or contractor to avoid liability arising from non-observance of plans and specifications or the use of materials of inferior quality.

This bill seeks to expand its coverage with the following proposed amendments:

First, unlike the present provision, which includes only buildings as subject matter, this bill covers all kinds of infrastructure projects.

Second, the liability for damages shall not arise not only in case the structure should collapse, but also where the infrastructure undertaking should require major repair by reason of defective construction.

Thirdly, this bill proposes to hold the contractors directly responsible for defective construction undertaken by sub-contractors. The sub-contractors shall merely assume subsidiary liability, This is to encourage contractors to be more cautious in their selection of subcontractors.

This bill is a product of the public hearings conducted by the Committee on Constitutional Amendments, Revision of Codes and Laws during the Tenth Congress.¹

ocr
Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹ This bill was re-filed during the Thirteenth Congress, First Regular Session.

AUG 11 P 7:37

SENATE
S. No. 2382

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Introduced by Senator Miriam Defensor Santiago

1 AN ACT AMENDING REPUBLIC ACT NO. 386,
2 OTHERWISE KNOWN AS THE CIVIL CODE, ARTICLE 1723,
3 ON THE LIABILITY OF ENGINEERS, ARCHITECTS OR CONTRACTORS ARISING
4 FROM NON-OBSERVANCE OF PLANS AND SPECIFICATIONS OR
5 THE USE OF MATERIALS OF INFERIOR QUALITY

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

6 SECTION 1. Republic Act No. 386, otherwise known as the The Civil Code, Article
7 1723, is hereby amended to read as follows:

8 Art. 1723. The engineer or architect who drew up the plans and
9 specifications for ANY STRUCTURE PROJECT WHETHER UNDERTAKEN
10 BY THE GOVERNMENT OR PRIVATE INDIVIDUAL OR ENTITY [building]
11 is liable for damages if within fifteen (15) years from the completion of the
12 structure, the same should collapse OR SHOULD REQUIRE MAJOR REPAIR
13 by reason of a defect in those plans and specifications, or due to the defects in the
14 ground. The contractor AND THE SUBCONTRACTOR DIRECTLY HIRED BY
15 THE FORMER ARE [is] likewise responsible for damages if the STRUCTURE
16 [edifice] falls OR REQUIRES MAJOR REPAIR, within the same period, on
17 account of defects in the construction or the use of materials of inferior quality
18 furnished by him, due to any violation of the terms of the contract. If the engineer
19 or architect supervises the construction, he shall be solidarily liable with the
20 contractor and the SUB-CONTRACTOR.

21 IN CASE THE CONSTRUCTION OF ANY INFRASTRUCTURE
22 PROJECT OR ANY PART THEREOF IS UNDERTAKEN BY A
23 SUBCONTRACTOR HIRED BY THE CONTRACTOR, THE LATTER SHALL

1 BE DIRECTLY RESPONSIBLE AND THE FORMER SUBSIDIARILY
2 RESPONSIBLE IF UPON COMPLETION THEREOF OR WHILE UNDER
3 CONSTRUCTION, THE STRUCTURE FALLS OR REQUIRES MAJOR
4 REPAIR WITHIN THE SAME PERIOD AND FOR THE SAME CAUSE
5 ABOVESTATED.

6 Acceptance of the building, after completion, does not imply waiver of
7 any of the causes of action by reason of any defect mentioned in the preceding
8 paragraph.

9 The action must be brought within ten (10) years following the collapse of
10 the building.

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

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

Approved,