

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



Senate  
Office of the Secretary

13 OCT -3 P 6 02

SENATE  
S. No. 1821

RECEIVED *ji*

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The Constitution, Article XII, 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...** (Emphasis added)

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 v. Director of Lands* (108 Phil. 335) and amplified in the landmark case of *Laurel v. 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 land a crime punishable under the Penal Code.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
*nr*

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

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1 AN ACT  
2 MAKING THE MALVERSATION OF RECLAIMED LAND A CRIME,  
3 AMENDING FOR THIS PURPOSE ACT NO. 3815,  
4 OTHERWISE KNOWN AS THE PENAL CODE

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

5 SECTION 1. Act No. 3815, otherwise known as the Penal Code, is hereby amended by  
6 adding Article 217-A after Article 217, to read as follows:

7 **ARTICLE 217-A. MALVERSATION OF RECLAIMED LAND. —**  
8 **ANY PUBLIC OFFICER WHO AIDS, COOPERATES WITH, OR**  
9 **OTHERWISE CONSENTS TO THE TRANSFER OF RECLAIMED LAND**  
10 **IN FAVOR OF ANY PERSON, CORPORATION, PARTNERSHIP,**  
11 **ASSOCIATION, OR ANY OTHER ENTITY WITHOUT A LAW PASSED**  
12 **BY CONGRESS AUTHORIZING ANY SUCH TRANSFER OF TITLE,**  
13 **SHALL BE PUNISHED WITH A PENALTY OF RECLUSION PERPETUA.**  
14 **IN THE IMPOSITION OF PENALTIES, THE DEGREE OF**  
15 **PARTICIPATION AND THE ATTENDANCE OF MITIGATING AND**  
16 **EXTENUATING CIRCUMSTANCES, AS PROVIDED IN THIS CODE,**  
17 **SHALL BE CONSIDERED BY THE COURT.**

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20 with this Act is hereby repealed, modified, or amended accordingly.

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

Approved,