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SESSION NO. 28
Wednesday, October 16, 2013

SIXTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:15 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Pia S. Cayetano led the prayer, to wit:

“God is our refuge and strength, an ever-present help in trouble. Therefore, we will not fear, though the earth gave way and the mountains fall into the heart of the sea; though its waters roar and foam, and the mountains quake with their surging”

Psalms 46:1-3

With fear, pain, anguish and uncertainty gripping the hearts of many people, we turn to You, the heat of our souls, the source of strength for everything in life. And we ask for Your peace, for Your provisions and for Your special presence at this time especially for our brothers and sisters, the Boholanons and the Cebuanos, and fellow citizens in different areas of the country.

We ask that we might be given success in the areas of rescue, restoration and renewal, and we trust that You will help us recover and that You will purify our spirits, cleanse our systems, and usher the Philippines into a new and a more desirable phase of our existence as a nation.

This is our prayer in the Name of Jesus Christ, our Lord and Saviour. Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Oscar G. Yabes, called the roll, to which the following senators responded:

Angara, S.	Lapid, M. L. M.
Aquino, P. B. IV. B.	Legarda, L.
Binay, M. L. N. S.	Marcos Jr., F. R.
Cayetano, A. P. C. S.	Osmeña III, S. R.
Cayetano, P. S.	Pimentel III, A. K.
Drilon, F. M.	Poe, G.
Ejercito, J. V. G.	Recto, R. G.
Escudero, F. J. G.	Revilla Jr., R. B.
Estrada, J.	Sotto III, V. C.
Guingona III, T. L.	Villar, C. A.
Honasan, G. B.	

With 21 senators present, the Chair declared the presence of a quorum.

Senator Trillanes arrived after the roll call.

Senator Enrile was on official mission.

Senator Defensor Santiago was on sick leave.

APPROVAL OF THE JOURNAL

Upon motion of Senator Cayetano (A), there being no objection, the Body dispensed with the reading of the Journal of Session No. 27 (October 14, 2013) and considered it approved.



SUSPENSION OF SESSION

Upon motion of Senator Cayetano (A), the session was suspended.

It was 3:18 p.m.

RESUMPTION OF SESSION

At 3:19 p.m., the session was resumed with Senate President Pro Tempore Recto presiding.

QUESTION OF PRIVILEGE OF SENATE PRESIDENT DRILON

Rising on question of personal and collective privilege, Senate President Drilon delivered the following speech:

It will be recalled that Ombudsman Conchita Carpio-Morales cautioned us about calling the pork barrel scam principal suspect Janet Napoles "at this time" before the Blue Ribbon Committee public hearings as it can create problems for the investigation being conducted by the Ombudsman.

Subsequently, upon the request of Sen. Teofisto L. Guingona III, we wrote another letter, informing her of a request for a reconsideration of her decision and Ombudsman Carpio Morales reiterated that, indeed, she is standing by her previous advice that it would be prudent, at this time, not to call on Miss Napoles.

However, while she maintained her position of caution, she told us that she will defer to the collective judgment of this august Body.

It is unfortunate that my decision to adhere to the advice of Ombudsman Morales — to which I concurred at that time as the more prudent and responsible action to take to ensure an orderly administration of justice — has been misconstrued as an effort to hide the truth.

The public criticism that came our way has undoubtedly injured the image of this institution before a public hungry to see Janet Napoles being grilled in the Senate halls.

My decision to defer the signing of the subpoena even created an opportunity for certain members of the opposition, particularly those who seek to block our anti-corruption reforms, to conduct a media vilification campaign against me and President Aquino's administration.

As the head of this institution, I must lead in restoring the confidence of our people in the

Senate. All my life, I have always adhered to the rule of law. All my life, it has always been about justice.

As former Secretary of Justice, I have always believed in the paramount pursuit of justice.

I am therefore appalled that there are talks of cover-up. I have never been a part of any cover-up and I will never be.

Therefore, I wish to inform my colleagues and the public that I have decided to sign the subpoena requiring Janet Napoles to appear before the Senate through the Blue Ribbon Committee.

I repeat, I have decided to sign the subpoena requested by Senator Teofisto L. Guingona III to require Janet Napoles to appear before the Senate Blue Ribbon Committee.

I met earlier today with Senate officers, particularly, Senate President Pro Tempore Sen. Ralph Recto, Majority Leader Sen. Alan Peter Cayetano, and the chairman of the Blue Ribbon Committee, Sen. Teofisto Guingona III. I have informed them that I have finally decided to sign the subpoena and compel Napoles to appear and testify before the Senate.

They are fully supportive of this decision.

With this decision, let me emphasize that the Senate remains committed to the orderly administration of justice. We have a functioning justice system that will clear the innocent and punish the guilty. Our priority is to prosecute those who are involved and ensure that those who misused public funds will be held accountable for their actions, and those with no evidence and clearly innocent will be declared innocent and acquitted from these charges.

As your Senate President, I have always said that this Senate investigation will be relentless in the pursuit for the truth. I consider the pork barrel scam as a great injustice to the Filipino people.

The Senate as an institution has always been on the side of the truth. We saw this during the impeachment of former Chief Justice Renato Corona and the other investigations against corruption especially during the Arroyo administration. Certainly, in this unprecedented case where even members of the Senate are allegedly involved, we will not shirk from our responsibility.

Ensuring that justice is upheld will always be the priority of this administration and that is the reason why we are now working towards

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holding accountable those who have taken advantage of the loopholes in the system.

As your elected legislators, we will see to it that no stone will be left unturned in enacting policy changes that will guarantee that this multibillion-peso scam will never ever happen again.

With that, I am confident that I will have the support of the entire Senate in this continuous quest, to seek the truth, to come out with the truth, and to make our justice system work.

INTERPELLATION OF SENATOR ESTRADA

At the outset, Senator Estrada commended and supported Senate President Drilon for his decision to sign the subpoena for Mrs. Janet Napoles to appear before the Blue Ribbon Committee, saying that he, together with Senators Revilla and Enrile, who was among those being implicated in the pork barrel scam, ought to know the truth. He also hoped that when Mrs. Napoles appears before the Blue Ribbon Committee, she would tell the truth so that the guilty could be punished and the innocent acquitted.

However, Senator Estrada stated that he disagreed with the move of the Senate President when the latter sought the opinion of the Ombudsman on the propriety of summoning Mrs. Napoles to appear before the Senate, an action that he said was tantamount to the Senate surrendering its independence to the Office of the Ombudsman.

Responding thereto, Senate President Drilon clarified that it was a question of policy that he had decided on, as he emphasized that the decision was simply to defer "at this time" the calling on Mrs. Napoles. He reiterated that it was not a decision not to call but a question of prudence and caution on the part of the Senate that it sought the advice of the Ombudsman. In fact, he pointed out that when the Ombudsman said that she would "defer to the collective judgment" of the Senate, the Senate took her statement to mean that her investigation would not be hampered by any other investigation on the matter.

Senator Estrada thanked the Senate President for his explanation, but he maintained his belief that the Senate should never be bound by any recommendation coming from the Executive branch or Judiciary so that it could preserve its independence.

Senate President Drilon replied that the Senate is not bound by anything coming from the other branches of government. He again emphasized that he simply sought the advice of the Ombudsman, a constitutional body, and it is up to the Senate whether to adhere to or ignore the advice.

INTERPELLATION OF SENATOR SOTTO

Senator Sotto expressed the wholehearted support of the Minority to the Senate President's decision, saying that the Minority had discussed the matter a number of times and even thought of allowing the Majority to decide on it.

At this point, Senator Sotto appealed to the Senate President to look into the repeated request of Senator Binay for the issuance of a subpoena *duces tecum* which the Blue Ribbon has not acted upon. He said that the request was made even before there was a request to subpoena Mrs. Napoles.

Senate President Drilon assured the Body that the Chairman of the Blue Ribbon Committee would look into the matter.

INTERPELLATION OF SENATOR OSMEÑA

Senator Osmeña expressed his full support for Senate President Drilon's decision to sign the subpoena.

On whether a majority vote of the membership of the Blue Ribbon Committee is required to request a subpoena from the Senate President, Senate President Drilon stated that by practice and tradition, the members support the decision of the chairman; however, the action of the chairman can be questioned by the majority of the committee.

Agreeing with the Senate President, Senator Osmeña stated that as the practice goes, the entire Body usually leaves the decision-making to the Chair. However, he recalled that there was an instance when there was a threat not to issue a subpoena by obtaining a majority of the vote of the members of the Blue Ribbon Committee, something that Senate President Drilon might not be aware of.

Senate President Drilon affirmed that he was not aware of the matter. He reiterated that by practice and tradition, the decision of the Chair is usually given full support by the members. He said that there were certain instances, however, when the concurrence either of the entire committee or of the Senate

itself was required to be formally secured in making a decision, for instance, in deciding whether or not to declare a witness in contempt. He added that the decisions of the Supreme Court would require a meeting to be conducted by the committee to discuss a petition to declare in contempt a certain resource person. In such case, he said that it is not only the decision of the chairman of the committee that would be sought but the decision of the majority of the entire Body.

MANIFESTATION OF SENATE PRESIDENT DRILON

Senate President Drilon said that given the support of the Majority and Minority for his decision to issue the subpoena to Mrs. Napoles, the scheduled all-senators caucus would nevertheless proceed to discuss what actions the Senate as an institution could take to assist the victims of the earthquake in Bohol and Cebu, the victims of typhoon *Santi*, and the victims of the Zamboanga crisis which resulted in thousands of people rendered homeless.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano (A), the session was suspended.

It was 3:35 p.m.

RESUMPTION OF SESSION

At 3:35 p.m., the session was resumed.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Upon resumption, Senator Cayetano (A) acknowledged the presence in the gallery of the following:

- Mr. and Mrs. Noy Falcasantos and Mr. Jay Mendoza, who played in the Philippine Basketball Association (PBA);

Senator Cayetano (A) conveyed to the senators the invitation of Mr. and Mrs. Noy Falcasantos and Mr. Jay Mendoza to the Zamboanga Hermosa basketball exhibition game that they were organizing for the benefit of Zamboanga victims. He said that the game is a fund-raising event to be held at the Ateneo de Manila gym on Saturday (October 19, 2013) at five o'clock in the afternoon. He said that he, along with

Senators Aquino, Angara and Ejercito, would be playing and enjoined other senators to also participate.

- Members of the British Women's Association headed by Helen Sturdy; and
- Social Work Department students of Columban College, Olongapo City.

The Senate President welcomed the guests to the Senate.

PRIVILEGE SPEECH OF SENATOR VILLAR

Availing herself of the privilege hour, Senator Villar delivered the following speech:

RECLAIMING THE PEOPLE'S RIGHT TO A BALANCED AND HEALTHFUL ECOLOGY

During the period when I was preparing this privilege speech, I received a letter from an octogenarian, 89-year-old Mr. Rodrigo delos Reyes, who has been a resident of Las Piñas City for fifty-one (51) years or since 1962. His property stands along Aldana Avenue in Manuyo Uno, in an area which is almost the boundary line between Parañaque and Las Piñas.

In his letter, Mr. Delos Reyes narrated that during the earlier decades, living in the said area was sheer joy for him and especially for his wife, a polio victim, who was confined to a wheelchair. They enjoyed the company of good neighbors in an almost idyllic surrounding. The frontage in their backyard provided them, in his own words, "with an unobstructed view of the Manila Bay and the fabulous sunset over the far horizon."

He said the idyllic scenario changed with the development of Manila Bay, specifically the Cavite Coastal Highway that started in the early 1980s, and succeeding reclamations and constructions that took place. According to him, the poor planning and implementation of the project has caused damage and so much inconveniences for those living around their area in Las Piñas/Parañaque. Foremost of which is massive flooding as even the lagoon near their area was reclaimed, rendering their area as a virtual catch basin. Mr. Delos Reyes provided us with photos to substantiate his complaints.

Mr. Delos Reyes, over the decades, has discussed his problems personally to those involved in various development/construction works that were implemented around his

property—including with the Public Estates Authority (PEA) and recently, on August 12, to its new entity, the Philippine Reclamation Authority (PRA). But until now, his letters and pleas were met with unresponsiveness and inaction.

The plight of Mr. Delos Reyes is actually nothing new to me. I have heard hundreds of similar stories. I highlighted his situation because he really exerted effort in diligently documenting everything—from copies of his correspondence with authorities, sketch of the development projects and various photos—which put everything in context and perspective.

Also, we are struck by the fact that if this man who lives in better circumstances in his solidly built, well-off property was heavily inconvenienced – almost to the point of being tormented – by the reclamation going on around him, we can only imagine what the less privileged residents go through, the families in poorer communities around the areas in question whose houses are not made of strong granite and heavy wood such as the home of Mr. Delos Reyes. These folks, unlike Mr. Delos Reyes, who has the financial means to repair damages to his property, have no such recourse.

Ang karamihan sa mga residente na nakapanayam ko ay walang ibang magawa kundi lumikas kung kinakailangan na at maglimas ng tubig-baha sa kanilang mga tahanan pagkatapos ng bawat pagbaha.

Maaari ko nang idagdag si Mr. Delos Reyes sa 315,849 na mga residente ng Las Piñas na naninindigan laban sa reclamation. Sila ang mga taong sumuporta sa aking petisyon laban sa planong patuloy na reclamation sa Manila Bay na makakaapekto sa 65 na barangay sa tatlong syudad — 37 sa Bacoor, 11 sa Parañaque, at 17 sa Las Piñas. As most of you are aware of, we have just recently elevated our petition to the Supreme Court. On October 10, we filed a petition for review on *certiorari* to again challenge the ruling of the Court of Appeals which favored a planned reclamation project in Manila Bay.

This leads us to the question: how far along are we in our bid to reclaim portions of our seas and coasts?

We know that the government's National Reclamation Plan (NRP) will involve 102 projects or 38,000 hectares all over the country. And 38 of these reclamation projects encompassing 26,234 hectares will be implemented in Manila Bay area alone — that is 70 percent of the entire

NRP. They are building another Metro Manila in Manila Bay. As I cited earlier, I and other residents of Las Piñas, Parañaque, and parts of Cavite are opposed to one of those 38 reclamation projects planned in Manila Bay — the proposed reclamation of 635.14 hectares of Manila Bay, around the 175 hectare Las Piñas-Parañaque Critical Habitat and Ecotourism Area or LPPCHEA, which is a protected area by virtue of Presidential Proclamation Nos. 1412 and 1412-A and included in the Ramsar list of wetlands of international importance, along with Tubataha and the Palawan Underground River.

I believe that this esteemed Body, or we, as legislators, need to be informed and updated about the extent of reclamation, those that will be undertaken in the near future and those in the pipeline. After all, these reclamation projects will affect our constituents. Those planned for Metro Manila will have far-reaching impact on several nearby provinces of Cavite, Bulacan, Pampanga, and Bataan.

Of course, there are other big reclamation planned in Cebu's Mactan Channel, covering 6,000 hectares in Cordova, Talisay, Lapu-lapu, Naga, Minglanilla, Mandaue, and Consolacion; 1,280 hectares in Antique; and 1,200 hectares in Leganes, Iloilo. The others will be in Panglao, Bohol (650 hectares), Negros Occidental (253 hectares), Aklan (240 hectares), Albay (240 hectares), Davao Gulf (238 hectares), Leyte (233 hectares), and Cagayan (220 hectares).

Of all people, we do not want to be remiss in this government plan — the NRP — that will affect not only majority of Filipinos but will also create an impact on the very communities that we live in.

Were the people consulted about it? How were the projects under NRP approved? Was there due diligence done? Were environmental risks taken into consideration? And to quote the question posed by a geologist: Is "science again being blithely ignored by the financial interests and government authorities promoting the various reclamation projects"? These are questions that need to be answered.

The right to a balanced and healthful ecology is an enforceable legal right under the Philippine Constitution which contains various environment-related provisions. To think also that Philippine environmental legislation has also been considered as among the most progressive in South East Asia. But the various degradation, depletion and destruction of ecosystems in the country provide a stark contrast to those constitutional provisions and legislations.

Let us take as an example the coastal areas where multiple ecosystems – such as mangroves, sea grass, coral reefs, and intertidal zones – co-exist. These narrow strips of land and sea – critical elements of the food-producing capacity of our islands – are continuously threatened by a paradigm that is totally inappropriate for our archipelago: reclamation.

“The 1987 Constitution, for instance, mandates that the State should protect the nation’s vast and diverse marine wealth. In contrast to this pronouncement, resource depletion and destruction of the country’s coastal and marine ecosystems within the Philippine exclusive economic zone has left fish stocks depleted by as much as 90%, sea grass beds destroyed by as much as 50%, and coral reefs degraded by as much as 96%, all in the past 50 years.” This is based from a paper drafted by the Center for Environmental Concerns-Philippines.

Coastal areas in urban ecosystems are even more vulnerable to deterioration of natural habitats. We have also lost 75.6% of mangroves in the past 82 years. We all know that a thriving mangrove cover is one of the best indications of a healthy environment or if nature can still support life in an area.

Ang mga mangroves ay ang pinakamabisang pananggalang natin sa mga bagyo at ang mga tinatawag na mga storm surges. Mas matibay pa sa kahit anong pinakamatibay na semento o sea wall. Nabalitaan at nakita rin ninyo marahil kung paano gumuho ang mga sea walls sa kahabaan ng Roxas Boulevard noong tayo ay sinalanta ng bagyong Pedring noong 2011. Ang iba pang istruktura, pati na ang nasa U.S. Embassy, ay nasira dahil sa storm surges. Samantala, sa amin sa Las Piñas, ang mga mangroves na aming itinanim ay nagsisilbing sapat na proteksyon laban sa mga storm surges.

Ang mga mangroves na ito rin ay mahalaga sa ating mga mangingisda dahil dito nangitlog ang mga isda at kung saan namamahay ang maliliit na isda. As cited by the Center for Oceans Solutions, “the destruction of large areas of mangrove forest can result in lower incomes from fishing, reduced local food production and extreme poverty; destructive fishing techniques produce the same impacts.”

Eminent mangrove expert Dr. Primavera says that mangroves will survive only if the tidal flow does not change, they remain at or above mean sea level, and they are the right mangrove species for that site. Reclamation will change all that, which will lead to the death and the destruction of our mangroves.

It cannot be overemphasized that any reclamation constitutes a triple strike within a triple strike against our remaining natural areas: 1) it destroys the source of the fill material by scraping and quarrying; 2) the part of the sea to be filled consisting of at least three types of ecosystems will no longer be viable nor life-supporting; and, 3) the surrounding areas will be forever changed due to hydrologic and migratory route changes.

Academician Fernando Siringan of UP Diliman’s Marine Science Institute and his colleagues have documented that Metro Manila’s coastal areas are sinking as fast as 3½ inches every year. And Dr. Mahar Lagmay’s Volcano-Tectonics Laboratory at UP Diliman’s National Institute of Geological Sciences has used sophisticated, precise satellite data to verify subsidence over wide areas of Metro Manila, with the proposed reclamation areas experiencing up to two inches per year.

In short, *lumulubog na po ang Metro Manila at iba pang bahagi ng ating bansa na talagang nakakaalarma.* Leveling data from the National Mapping and Resource Information Authority (NAMRIA) reveal areas in Metro Manila that sank .068 meter to 1.34 meters in 30 years (from 1979 to 2009).

In fact, Dr. Kevin Rodolfo cited that “The land is subsiding about 30 times faster, mainly from over-pumping of groundwater. Reclamation may well speed up the sinking of the land, from withdrawal of groundwater, or from the added weight of new buildings, or both.”

At hindi naman pwede tambakan nang tambakan lang natin lagi ang mga ito. In fact, *ang walang kapararakan na pagtatambak ay isa rin sa mga problema, katulad nga ng inireklamo ni Mr. Delos Reyes.* He cited in his letter that PEA ground-filling raised their developed land level by some 12-13 feet above the ground level of adjacent lands. *Kaya naging catch basin ang kanilang area, sinasalo nila ang lahat ng tubig-baha mula sa mas matataas na kalye o lugar.*

We should also remember that all bayfill materials, natural or man-made, are masses made up of pieces of rock ranging in size from tiny particles of clay to large boulders. Spaces between the solid pieces are occupied by water. Under normal conditions, the solid particles are in contact, so that the lower ones bear the weight of other grains above them as well as any buildings on top of them. *Nagkakaroon ng surface movement at pati na pagguho na delikado kapag lumindol. Nagiging shaky ang*

foundation *at ang mga buildings o bahay ay maaaring lumubog o tumumba. Ito ay very timely because nagkaroon tayo ng lindol sa Visayas.*

That is also what happened when the six-storey Ruby Tower on Doroteo Jose and Teodora Alonzo streets in Sta. Cruz, Manila collapsed during an intensity 7 earthquake on August 2, 1968 or 45 years ago. That was one of the biggest disasters in our lifetime—more than 600 tenants of the building died during the collapse.

The Japan International Cooperation Agency (JICA) has, in fact, released a study, the “2004 earthquake impact study for Metro Manila,” where it cited that Metro Manila is overdue to experience a catastrophic magnitude 7.2 earthquake and the coastal areas would suffer the most due to liquefaction. *Iyon pong liquefaction is when the reclaimed land reverts to a liquid state. Kaya iyong ating mga reclaimed areas pino-foresee nila na babalik na maging tubig.* It also emphasized that we are not ready for such an eventuality. The JICA study created 18 earthquake scenarios. Three of the scenarios – the West Valley Fault, the Manila Trench and the 1863 Manila Bay – could severely impact Metro Manila, based on the study.

The JICA study gives a somber and sobering worst-case scenario: 170,000 residential houses will collapse; 340,000 residential houses will be damaged; 34,000 people will die; 114,000 will be injured; fires will break out and burn approximately 1,710 hectares and could kill 18,000 or more people.

Going back to my point, this leads us to ask: *Bakit nga ba kailangan mag-reclaim in the first place? Why not develop the blighted areas of the metropolis instead? The amount to be used to reclaim, instead of destroying ecosystems and driving reclaimed lands to sell for sky-high prices, could be used for inclusive development and urban renewal of Metro Manila. There are so many communities that need urgent attention and investment as far as development is concerned.*

Besides its socio-cultural and economic consequences, the environmental impact of reclamation projects begs for our attention. In regulating reclamation projects, issues of subsidence and liquefaction, habitat loss in multiple ecosystems, among others, should be factored in as well. Can our current regulatory regimes protect us from these threats?

The Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources accepts vague promises from proponents, because they say that the

environmental impact assessment (EIA) system is merely a planning tool meant to ensure that the proponent does what it could. As such, proponents are not even required to say what they will do, only that they will take the “appropriate measures” to mitigate adverse impacts, never mind that the proponents cannot even show financial capacity to undertake the project, much less what they promise in terms of mitigation.

As such, proponents get away with generalizations regarding the ecological and engineering safety and rely on experts whose fields are reclamation. Hence, they are trained to defend reclamation and not to assess the impacts. And where will these experts be when the adverse impacts start to occur and affect us?

Let me emphasize here the importance of public consultation in a matter that in all intents and purposes is of public interest. The common people or the community residents are the ones who will bear the brunt of the regulators’ mistakes. And when that time comes, the projects are well over completed. The people should be consulted when these are still in the drawing boards, in fact, even before these are even conceptualized. They have a say because their very lives depend on the outcome of such projects.

I remember, I attended a hearing of the House Committee on Natural Resources in November last year regarding the proposed Alltech Coastal Bay reclamation project that we opposed. We found out that there was really no public dialogue regarding the projects. Some of the invited resource persons confirmed that they were not consulted at all. There was one incident, according to Mr. Alfonso Quinto, chairman of Unified Marketing and Services Cooperatives of Parañaque Fishermen Wharf, when they were called to attend a meeting but nothing was discussed. *Ang sabi nila, pinaupo lang daw sila at pinakain, pagkatapos tapos na rin.*

Who then gives the final go-signal for reclamation? The Philippine Reclamation Authority which, as it is, has a questionable legal basis? Reclamation should therefore be governed and regulated by an inter-agency authority. The reason citizens rely on the Environment Management Bureau and its environmental impact assessment system is that it is the only regulation that covers these types of development apart from the Philippine Reclamation Authority.

Let us revisit how PRA came to be.

The Public Estates Authority or PEA was established on February 4, 1977, by virtue of

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Presidential Decree No. 1084 enacted into law by President Marcos. PEA was created to provide a coordinated, economical and efficient administration of lands, especially reclaimed lands, belonging to, managed and/or operated by the government, with the object of maximizing their utilization and hastening their development consistent with the public interest.

Executive Order No. 525 issued on February 14, 1979, provides that "All reclamation projects shall be approved by the President upon the recommendation of the Public Estates Authority."

On October 26, 2004, President Arroyo issued Executive Order No. 380, which transformed PEA into the Philippine Reclamation Authority. The PRA shall perform all the powers and functions of the PEA relating to reclamation activities. On June 24, 2006, President Arroyo issued Executive Order No. 543, whereby she delegated to PRA the power of the President to approve reclamation projects.

On February 25, 2011, the PRA Board of Directors approved the National Reclamation Plan under PRA Board Resolution No. 4161 covering a total of 102 reclamation projects over a total area of 38,272 hectares within Manila Bay, Visayas, Mindanao and other locations.

PRA's *National Reclamation Plan* and the multiple issues attached to reclamation have gained so much alarm from different sectors. In a People's Summit on Reclamation held in October 2012 attended by experts from relevant fields, the resultant call for a moratorium on *reclamation projects under the National Reclamation Plan* was justified on the following grounds, among others:

- The National Reclamation Plan threatens to affect an equivalent of one-tenth of our coastal and marine habitats. These reclamation projects could potentially translate to a loss of a value of nearly P30 billion per year in seagrass goods and ecosystems alone.
- Land reclamation is noted by the United Nations Food and Agriculture Organization as an irreversible form of environmental degradation, thus running counter to the State's guarantee to provide its citizens with a "healthful and balanced ecology in accord with the rhythm and harmony of nature" and "protect the rights of subsistence fishermen, especially of local communities."

The PEA, created by statute by President Marcos, was changed into the PRA by a mere executive order by President Arroyo. They do not have budgetary appropriations from govern-

ment and are instead expected to earn from reclamations.

It is true and unfortunate that we treat reclamation as normal. As if destroying coasts and digging up sea beds are all par for the course, we have a reclamation authority that thinks only of which coastline to dump into next. There is no other agency with that mandate in the world, and the only other agencies with that word in their names refer to the real kind of reclamation – the rehabilitation of degraded lands and renewal of blighted communities.

It might surprise us to know that Hong Kong, that poster island for reclamation, as small as it is, enacted a legal presumption against reclamation. Such presumption can only be overturned if an overriding public need for the reclamation is shown.

In 2004, the Court of Final Appeals in Hong Kong compressed that three-tiered test into one—the overriding public need test. It further elaborated on what this test requires: a need should only be regarded as overriding if it is a compelling and present need. The compelling need is far beyond "something nice to have, desirable, preferable or beneficial."

In addition, where there is a reasonable alternative to reclamation, there is no overriding need for reclamation. All circumstances should be considered as to whether there is any reasonable alternative and they would include the economic, environmental and social implications of each alternative. We should, at the very least, have as stringent a standard. Considering that many areas in our cities are attended by urban blight, we should have an even stricter standard that compels the development first of these areas before any plans for reclamation.

Cost-benefit analyses and project alternatives, therefore, become an absolute necessity for any metropolis to consider if reclamation, with all its concurrent threats and dangers, should be the direction its development should go towards. Without these cost-benefit analyses, there are very real dangers that would beset the project.

Consider the country's largest proposed reclamation project—the reclamation of 3,000 hectares of coastal areas in the Municipality of Cordova in Cebu which, if it will push through, will be one of the largest land reclamation projects in Southeast Asia. There was a study undertaken by Lourdes Montenegro from the University of San Carlos, Cebu City. The said research study was commissioned and published by the Singapore-based Economy and Environment Program for Southeast Asia (EEPSEA).

The study found that the “environmental and social costs of the project would exceed P3.3 billion.” It further cited that if the construction costs and the economic benefits of the project would be taken into consideration, “the reclamation scheme would result in an economic cost to society of over P18.4 billion.”

The Cordova Reclamation Project was put on hold as some government approvals have been withdrawn. Environmental issues plague the project, such as its impact on migratory birds, damage from landfill quarrying, damage to corals — 640 hectares of coral reef in the area would be affected by the reclamation — among others. And there is also the economic impact due to the loss of livelihood of fisherfolk in the area. The current aggregate net fishing income in the area is worth P29.9 million per year, and the reclamation will remove half of the income.

The conclusion of the study or the report on Cordova is that the reclamation project is not the way forward. It cited: “Overall, it is clear that the Cordova Reclamation Project, as it stands, is not an optional development strategy.” One of the options seen is sustainable eco-tourism in the municipality.

The questionable government approval of reclamation projects has been a thorny issue. I am sure that most of us here are familiar with what was dubbed as “the grandmother of all scams” – the PEA-Amari deal.

On April 24, 1995, PEA entered into a joint venture agreement (JVA) with Amari, a private corporation, to develop the three reclaimed islands known as the “Freedom Islands” along the Las Piñas-Parañaque portions of Manila Bay, and includes the reclamation of additional substantial hectares of submerged areas surrounding these islands. By the way, the proposed reclamation area of PEA-Amari is the same reclamation areas in Las Piñas-Parañaque that we are opposing at present.

An investigation, in aid of legislation, by the Senate Blue Ribbon Committee and the Senate Committee on Government Corporations and Public Enterprises ensued. The said committees concluded that the JVA is illegal because the reclaimed lands that PEA seeks to transfer to Amari under the joint venture agreement are lands of the public domain which the government cannot alienate.

The PEA-Amari deal became the life-long crusade of the late Atty. Frank Chavez who passed away just last month. He was my legal counsel in the petition for writ of *kalikasan*

against the same planned reclamation project, off Manila Bay, that will affect the Las Piñas-Parañaque Critical Habitat and Eco-tourism Area, the former PEA-Amari deal. As I mentioned earlier, we have elevated the petition to the Supreme Court just last week. Among the points that we are challenging is the fact that CA considered the Alltech Coastal Bay Project as a continuation of the PEA-Amari Manila Coastal Bay project even when the latter never materialized. We question the validity of the issuance of the Environmental Compliance Certificate (ECC).

To go back to the PEA-Amari deal, Attorney Chavez then filed a petition for *mandamus* where he prayed that PEA publicly disclose the terms of any renegotiation of the joint venture agreement; assailed the sale to Amari of lands of the public domain as a blatant violation of Section 3, Article XII of the 1987 Constitution, prohibiting the sale of alienable lands of the public domain to private corporations. He also asserted that he seeks to enjoin the loss of billions of pesos in properties of the State that are of public domain.

In their haste to get around the decision in *Chavez vs PEA-Amari*, which disallowed the transfer of ownership of reclaimed lands to private corporate interest, a consultant was hired with funds from the USAID. A document was submitted to NEDA which points to an old law, RA 1899, to justify reclamation by local governments.

RA 1899 says: “Section 4. All lands reclaimed as herein provided, except such as may be necessary for wharves, piers and embankments, roads, parks, and other public improvements, may be sold or leased under such rules and regulations as the municipality or chartered city may prescribe.” If you notice here, the uses of the “reclaimed land” are for public uses only and therefore cannot be sold privately. However, the management of such lands can be done with the private sector through lease or joint venture as provided for under the LGC, being the LGUs as corporate entity.

They then rushed to have local governments stand in as proponents and as a result, many aspects were overlooked. The first is that even after reclamation by private entities using the local governments as proponents, the land will still not be available for private development. *Chavez vs PEA-Amari* will still prevail as to ownership of reclaimed lands as lands of the public domain. Any land reclamation, regardless of who initiates it, i.e. PRA, private sector, LGU, is considered “unclassified public land” and therefore part of the public domain which is now under the Department of Environment and

Natural Resources. This was conveyed to us by former Department of Environment and Natural Resources Undersecretary Elmer Mercado.

In fact, the Supreme Court also claimed in the *Chavez* case that the prohibition against private ownership of alienable lands of the public domain "was intended to diffuse equitably the ownership of alienable lands of the public domain among Filipinos which were then numbering 80 million strong," and now at 96.7 million.

Private corporate reclamation, whether done through PRA or local governments, would have to show that this objective is reached. Experience has shown that the road to reclamation is littered with broken promises, non-inclusive development and the perpetuation of a consumerist and take-all-you-can development model that is not well-suited to a world with a changing climate and with an ever-increasing population. The way to a developed economy is to make public lands productive and benefit a much broader base among the citizenry.

Actually, I have a related experience regarding this point. Las Piñas Congressman Mark Villar wrote to PRA General Manager Peter Abaya in September 2011 and requested if he could use the 100-square-meter PRA property beside the Philippine Councilor's League, Vice Mayor's League buildings and MMDA Transfer Station as the venue of his barangay-based livelihood center for women and out-of-school youth.

PRA's Mr. Abaya replied and said the PRA cannot grant the free use of the lot, but offered that they could lease the property for at least four percent of the current appraised value of the property, to which the Las Piñas city government replied that it is willing to lease the said property.

Muling sumagot ang PRA na hindi na raw pwede rentahan ang space dahil may iba raw silang plano para doon, specifically to build a perimeter fence for an ongoing condominium project. But we found out later that PRA leased the space to our barangay na ang itinayo ay isang peryahan. It still baffles us why PRA opted to give leasing priority to a peryahan rather than to a livelihood project that we felt would be more beneficial to more people. Hanggang ngayon, walang kaayusan ang property ng PRA na kung sana ibinigay sa amin ay napaganda na namin iyong property na iyon.

The fact that we have created an agency devoted solely to reclamation, when it brings about such heavy adverse environmental

consequences for everyone, is against equitable and inclusive growth. In the meantime, large parts of the metropolis are underdeveloped, badly developed or idle. Without the prospect of new land, we will be forced to make the latter better.

Alternatively, PRA can set their sights on inner cities and neglected areas for their development and economic goals, and this honorable Congress would rename it as the Philippine Redevelopment Authority. More importantly, along with that name change, revise its mandate.

We urge that Congress rethink the purposes and revisit the powers of the Philippine Reclamation Authority.

If we cannot save the very ecosystems which provide our people their daily provisions and protect them from catastrophic natural disasters, we are basically denying our fellow Filipinos of their basic constitutional rights. It is time that we stopped reclaiming lands. It is time for us to give back to our people their right to a balanced and healthful ecology.

To this end, this Representation has filed Proposed Senate Resolution No. 294 to review the mandate of the PRA as a GOCC while directing the Senate Committee on Government Corporations and Public Enterprises to conduct an inquiry in aid of legislation for this as was done in the past when this Chamber looked into the PEA-Amari deal.

MANIFESTATION OF SENATOR CAYETANO (A)

Senator Cayetano (A) informed the Body that Senators Cayetano (P), Legarda and Pimentel have expressed their intention to interpellate Senator Villar but at a later time considering that the Members were going into caucus.

However, Senator Villar said that she was prepared to respond to queries during the session as she would be abroad visiting the Institute of Poverty of the New York University the following week. As such, Senator Cayetano (A) proposed that interpellations on the privilege speech of Senator Villar commence during the resumption of plenary sessions in November.

REFERRAL OF SPEECH TO COMMITTEE

Thereupon, upon motion of Senator Cayetano (A), there being no objection, the Chair referred the

privilege speech of Senator Villar to the Committee on Government Corporations and Public Enterprises as the primary committee, and to the Committee on Environment and Natural Resources as the secondary committee, in consideration of Proposed Senate Resolution No. 294 filed by Senator Villar.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano (A), the session was suspended.

It was 4:22 p.m.

RESUMPTION OF SESSION

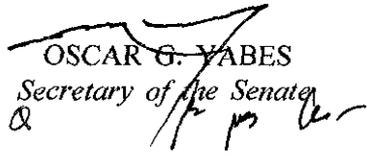
At 6:03 p.m., the session was resumed with Senate President Drilon presiding.

ADJOURNMENT OF SESSION

Upon motion of Senator Cayetano (A), there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, October 21, 2013.

It was 6:04 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES
Secretary of the Senate


Approved on October 21, 2013