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SENATE
S. B. NO. 2071

RECEIVED BY: *ji*

Introduced by Senator Maria Lourdes Nancy S. Binay

EXPLANATORY NOTE

Republic Act No. 6552, otherwise known as the "Realty Installment Buyer Protection Act", or more popularly the "Maceda Law", was approved on August 26, 1972 to protect real property owners from inequitable conditions imposed on sale transactions involving real estate purchase financed through installment basis.

Under the Maceda Law, buyers of real properties who have paid at least two (2) year installments but defaults in the payment of the remaining installments, and the contract is thereafter cancelled, are given the benefit of, among others, the refund of a percentage of the cash surrender value of the payments on the property, thus:

"Section 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under Republic Act Numbered Thirty-eight hundred forty-four, as amended by Republic Act Numbered Sixty-three hundred eighty-nine, where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:

X X X

(b) If the contract is canceled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made, and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made: Provided, That the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer.

Down payments, deposits or options on the contract shall be included in the computation of the total number of installment payments made." (Emphasis supplied.)

In 2009, it was reported that approximately eighty five per cent (85%) of complaints lodged with the Housing and Land Use Regulatory Board's legal office involve refund of installment payments.

Although the Maceda Law expressly provides for the amounts to which the defaulting buyer is entitled – fifty per cent (50%) of total payments made and, after five years of installments, an additional five per cent (5%) every year but not to exceed ninety per cent (90%) of the total payments made – it is quite often that real property developers unilaterally impose deductions on refundable amount.

Consequently, qualified buyers are deprived of receiving the full percentage of the amount of the refund to which they are, by express mandate of the law, entitled to receive.

This bill proposes to clarify the rights of buyers of real property bought on installment basis under the Maceda Law by expressly prohibiting real estate developers from deducting from the value of the refund due to the buyer fees, liquidated damages, penalties or other costs of whatever nature. Any provision in a contract to the contrary shall be void.

In view of the foregoing, the passage of this bill is earnestly recommended.


MARIA LOURDES NANCY S. BINAY
Senator

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1 AN ACT CLARIFYING THE RIGHTS OF BUYERS ENTITLED TO RECEIVE REFUND
2 UNDER REPUBLIC ACT NO. 6557, OTHERWISE KNOWN AS THE REALTY
3 INSTALLMENT BUYER PROTECTION ACT, BY AMENDING SECTION 3 THEREOF,
4 AND FOR OTHER PURPOSES
5

6 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
7 *assembled:*
8

9 SECTION 1. Section 3 of Republic Act No. 6552, otherwise known as the Realty
10 Installment Buyer Protection Act, is hereby amended to read as follows:
11

12 "Section 3. In all transactions or contracts involving the sale or financing of
13 real estate on installment payments, including residential condominium
14 apartments but excluding industrial lots, commercial buildings and sales to
15 tenants under Republic Act Numbered Thirty-eight hundred forty-four, as
16 amended by Republic Act Numbered Sixty-three hundred eighty-nine, where
17 the buyer has paid at least two years of installments, the buyer is entitled to
18 the following rights in case he defaults in the payment of succeeding
19 installments:
20

21 (a) To pay, without additional interest, the unpaid installments due
22 within the total grace period earned by him which is hereby fixed at
23 the rate of one month grace period for every one year of installment
24 payments made: Provided, That this right shall be exercised by the
25 buyer only once in every five years of the life of the contract and its
26 extensions, if any.
27

28 (b) If the contract is canceled, the seller shall refund to the buyer the
29 cash surrender value of the payments on the property equivalent to
30 fifty per cent of the total payments made, and, after five years of
31 installments, an additional five per cent every year but not to exceed
32 ninety per cent of the total payments made: Provided, That the actual
33 cancellation of the contract shall take place after thirty days from
34 receipt by the buyer of the notice of cancellation or the demand for
35 rescission of the contract by a notarial act and upon full payment of the
36 cash surrender value to the buyer.
37

38 THE SELLER SHALL REFUND THE FULL AMOUNT OF THE

1 CASH SURRENDER VALUE TO WHICH THE BUYER IS
2 ENTITLED WITHOUT ANY DEDUCTION OF ANY FEES,
3 PENALTIES, CHARGED, OR OTHER COSTS OF WHATEVER
4 NATURE. ANY PROVISION TO THE CONTRARY SHALL BE
5 VOID AND OF NO FORCE AND EFFECT.
6

7 Down payments, deposits or options on the contract shall be included in the
8 computation of the total number of installment payments made.”
9

10 **SECTION 2. *Implementing Rules and Regulations.*** The Housing and Land Use Regulatory
11 Board, in coordination with the National Housing Authority, and the Housing and Urban
12 Development Coordinating Council, and other relevant government agencies shall issue
13 implementing rules and regulations within ninety (90) days from effectivity hereof, and such
14 other rules and regulations as may be necessary to carry out the purpose of this Act.
15

16 **SECTION 3. *Repealing Clause.*** All laws, decrees, orders, rules and regulations, other
17 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or
18 modified accordingly.
19

20 **SECTION 4. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its complete
21 publication in at least two (2) national newspapers of general circulation.
22

23 Approved,