

SENATE  
S. No. **2493**

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
MAKING THE MALVERSATION OF RECLAIMED LANDS A CRIME, AMENDING FOR  
THIS PURPOSE ARTICLE 217 OF ACT NO. 3815, OTHERWISE KNOWN AS THE PENAL  
CODE<sup>1</sup>

EXPLANATORY NOTE

The Constitution, Article 12, Sections 2 and 3, provide:

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 supplied)

Applying the Regalian doctrine, lands reclaimed from foreshore and submerged areas are owned by the 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 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 (1960) and amplified in the landmark case of *Laurel v. Garcia*, 187 SCRA 797 (1990), prohibiting the sale of the Roppongi property in Japan. The Supreme Court declared:

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.


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<sup>1</sup> This bill was originally filed during the Thirteenth Congress, First Regular Session.

This bill seeks to make malversation of reclaimed lands a crime punishable under the Penal Code.

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
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SENATE  
S. No. **2493**

RECEIVED BY 

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Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT  
2 MAKING THE MALVERSATION OF RECLAIMED LANDS A CRIME, AMENDING FOR  
3 THIS PURPOSE ARTICLE 217 OF ACT NO. 3815, OTHERWISE KNOWN AS THE PENAL  
4 CODE

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

7 ARTICLE 217-A. MALVERSATION OF RECLAIMED LANDS. -ANY  
8 PUBLIC OFFICER WHO AIDS, COOPERATES WITH, OR OTHERWISE  
9 CONSENTS TO, THE TRANSFER OF RECLAIMED LANDS IN FAVOR OF  
10 ANY PRIVATE CORPORATION, WITHOUT A LAW PASSED BY  
11 CONGRESS AUTHORIZING ANY SUCH TRANSFER OF TITLE, SHALL BE  
12 PUNISHABLE BY A PENALTY OF RECLUSION PERPETUA, IF THE  
13 AGGREGATE AMOUNT OF TOTAL VALUE OF THE LAND IS AT LEAST  
14 FIFTY MILLION PESOS (₱50,000,000.00). IN THE IMPOSITION OF  
15 PENALTIES, THE DEGREE OF PARTICIPATION AND THE ATTENDANCE  
16 OF MITIGATING AND EXTENUATING CIRCUMSTANCES, AS  
17 PROVIDED IN THIS CODE, SHALL BE CONSIDERED BY THE COURT.

18 SECTION 2. *Repealing Clause.* - All laws, decrees, orders, proclamation, rules and  
19 regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed,  
20 amended, or modified accordingly.

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

Approved,

/mamf27Nov2014