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Introduced by Senator Miriam Defensor Santiago

AN ACT
REPEALING ARTICLE 891 OF THE CIVIL CODE OF THE PHILIPPINES

EXPLANATORY NOTE

The Civil Code, Article 891 provides:

The ascendant who inherits from his descendant any property which the latter may have acquired by gratuitous title from another ascendant, or a brother or sister, is obliged to reserve such property as he may have acquired by operation of law for the benefit of relatives who are within the third degree and who belong to the line from which said property came.

This provision describes the concept of *reserva troncal*. In the case of *Padura v. Baldovino*¹, the Court stated that the purpose of *reserva troncal* is “to assure the return of the reservable property to the third degree relatives belonging to the line from which the property originally came, and avoid its being dissipated into and by the relatives of the inheriting ascendant (*reservista*).”

Professor Ruben F. Balane during the Fifth J.B.L. Reyes Lecture listed down points to consider in deciding whether to retain or discard the provision on *reserva troncal*.² Two of which are the following:

1. The *reserva* has its origins in the feudal system of the Middle Ages....

There is hardly any crying need in this last quarter of the century to keep property intact within one family; on the contrary, the need is for diffusion rather than concentration. Surely, treating family patrimony as if they were feudal estates to be jealously guarded lest they fall into the

¹ 104 Phil 1065 (1958).

² The Reserva Troncal: Prospect and Retrospect, 58 Phil. LJ 387.

soiled hands of the great unwashed is an anachronism that should be left in history books, where they properly belong, and not in Civil Codes.

2. [*R*]eserva entails and encumbers property. An encumbrance....is never conducive to the development of property. What normally happens is that the *reservista* – faced with the prospect of losing the property to the other line, and therefore unable to transmit the property to his own heirs – will allow the property to stagnate, will not introduce permanent improvements thereon, will refuse to invest on it – all in all a thoroughly bad and economically unsalutary situation.

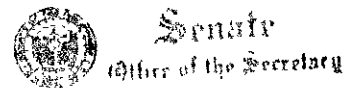
Another consequence of entailment is that it prevents the free circulation of property – for how many people will be eager to buy property under a resolutive condition? – and thus is not conducive to commercial growth....

There being no compelling reason to retain this archaic provision of the Civil Code, it is high time to repeal it. *Reserva troncal* is no longer desirable in this day and age. As Castan points out, “The institution of the *reservas* is hardly consistent with the principles of strict law, let alone with the spirit of modern law. The *reservas* are based on a spirit of distrust and suspicion from which modern law is veering away, aware that the regime (of *reservas*) is unjust in principle and sterile in practice.”³


MIRIAM DEFENSOR SANTIAGO
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³ 4 Castan, *Derecho Civil Espanol*, Comun y Floral 185 (6th ed. 1944), quoted in and translated by Balane.

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



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SENATE
S. No. 2512

RECEIVED BY: *[Signature]*

Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT
2 REPEALING ARTICLE 891 OF THE CIVIL CODE OF THE PHILIPPINES

3 SECTION 1. Civil Code, Article 891 is hereby repealed.

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

Approved,

/tmdp5Dec2014