



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

14 DEC 22 P4 34

SENATE
S. B. No. 2538

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Introduced by Senator Miriam Defensor Santiago

AN ACT
AMENDING PRESIDENTIAL DECREE NO. 1818, SECTION 1 ON COURT
JURISDICTION

EXPLANATORY NOTE

The Constitution, Article VIII, Section 1 provides that:

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the other hand, Presidential Decree No. 1818, Section 1, states:

No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute or controversy involving in infrastructure project, or mining, fishery, forest or other natural resource development project of the government, or any public utilities for the transport of the goods or commodities, stevedoring and arvester contracts, to prohibit any persons, entity or governmental official from preceding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

The rationale for the issuance of P.D. 1818 was that it is in the public interest to adopt such prohibition against the issuance of restraining orders or injunction in these areas of activity which are critical to the economic development effort of the nation, in order not to disrupt or the hamper the pursuit or essential government projects.

However, instead of achieving this desired result, P.D. No. 1818, since its issuance on 16 January 1981, has been used to mock the judicial system by serving as a protective

mantle to render inutile attempts to check possible government excesses, as we see in *City of Angels vs. Court of Appeals*¹, Thus, the Supreme Court itself, in *Genaro R. Reyes Construction, Inc. vs. Court of Appeals*², “entertain[s] serious doubts in regard to the constitutionality of P.D. 1818.”

This “overprotective” mantle was applied by the Court of Appeals to overturn the decision of a Makati Regional Trial Court Judge to the collection of toll fees along the newly constructed Manila-Cavite expressway. The Court of Appeals said that “while the collection of toll fees is not an infrastructure project, it falls within the scope of P.D. 1818 as an activity necessary for the execution, implementation or operation of an infrastructure project of the government.”

P.D. No. 1818 should be amended because it violates the above doctrine. Citing *Zwickler vs. Koota*³ in *Adiong vs. Comelec*⁴, the Supreme Court said that a statute is considered void if:

It offends the constitutional principle that a governmental purpose to control or prevent activities constitutionally subject to state regulations may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms.

In a series of decisions, this Court has held that even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved...

The purpose that P.D. No. 1818 sought to achieve could be attained by reasonable restrictions rather by an absolute prohibition. Such continued adherence to a contentious law has no place in our democracy.⁵


MIRIAM DEFENSOR SANTIAGO
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¹ 261 SCRA 107 (1996).

² 234 SCRA 116, 126 (1994).

³ 19 L. ed 2d 444 (1976).

⁴ 207 SCRA 712, 719 (1992).

⁵ This bill was originally filed during the Thirteenth Congress, First Regular Session.

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Senate
Office of the Secretary

14 DEC 22 P4:14

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S. B. No. **2538**

R. S. L. *[Signature]*

Introduced by Senator Miriam Defensor Santiago

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

AN ACT
AMENDING PRESIDENTIAL DECREE NO. 1818, SECTION 1 ON COURT
JURISDICTION

1 SECTION 1. Presidential Decree No. 1818, also known as Prohibiting Courts
2 from Issuing Restraining Orders or Preliminary Injunctions in cases involving
3 Infrastructure and Natural Resource Development Projects of, and Public Utilities
4 operated by, the Government, Section 1, is hereby amended to read as follows:

5 "Section 1. No court of the Philippines shall have jurisdiction to issue any
6 restraining order, preliminary injunction or preliminary mandatory injunction in any case,
7 dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or
8 other natural resource development project of the government, or any public utility
9 operated by the government, including among others public utilities for the transport of
10 the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or
11 persons, entity or governmental official from preceding with, or continuing the execution
12 or implementation of any such project, or the operation of such public utility, or pursuing
13 any lawful activity necessary for such execution, implementation or operation. UNLESS
14 THE MATTER IS OF EXTREME URGENCY INVOLVING NATIONAL INTEREST,
15 SUCH THAT UNLESS A TEMPORARY RESTRAINING ORDER, PRELIMINARY
16 INJUNCTION, OR PRELIMINARY MANDATORY INJUNCTION IS ISSUED,

1 GRAVE INJUSTICE AND IRREPARABLE INJURY WILL ARISE, AND PROVIDED
2 THE APPLICANT SHALL FILE A BOND, IN AN AMOUNT FIXED BY THE
3 COURT, TO THE EFFECT THAT SUCH BOND SHALL ACCRUE IN FAVOR OF
4 THE GOVERNMENT IF THE COURT SHOULD FINALLY DECIDE THAT THE
5 APPLICANT WAS NOT ENTITLED THERETO.”

6 SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance,
7 executive order, letter of instruction, administrative order, rule or regulation contrary to
8 or inconsistent with the provisions of this Act is hereby repealed, modified or amended
9 accordingly.

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

12 Approved

/dpmNov2014