

FOURTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

7 JUL -3 A9:54

SENATE

RECEIVED BY: 

Senate Bill No. 652

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The Civil Code, Article 737, states that "the donor's capacity shall be determined as of the time of the making of the donation." The term "making" must be interpreted to mean "perfection" of the donation, otherwise if "making" means "giving", Art. 737 would in some cases be inconsistent with Art. 734 which states that "the donation is perfected from the moment the donor knows of the acceptance by the donee".

An example of the perceived inconsistency is: "an insane donor donates on January 1. Donee accepts on January 5. Donor regains sanity on January 7. Donor knows of donee's acceptance on January 8, at a time when he was sane (capacitated). In this case, if we interpret "making" as "giving", the donation would be voidable because of the donor's incapacity at the time he "gave" his property to the donee. On the other hand, if we consider "making" as "perfection", the donation would be valid because at the time of "making" (perfection), both parties had full capacity.

To avoid this interpretation, the language of article 737 must be changed to make it clear and consistent with other provisions of the Civil Code on Donations.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
AMENDING REPUBLIC ACT NO. 386, ALSO KNOWN AS THE CIVIL CODE
OF THE PHILIPPINES, ARTICLE 737, MAKING IT CONSISTENT WITH THE
OTHER PROVISIONS UNDER THE TITLE ON DONATIONS.

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

SEC. 1. **Republic Act No. 386**, also known as the Civil Code of the
Philippines, Article 737, is hereby amended to read as follows; is hereby
amended to read as follows:

"Article 737 [The Donor's capacity shall be determined as of the time of
the making of the donation] **AT THE TIME THE DONATION IS
PERFECTED, BOTH THE DONOR AND THE DONEE MUST BE
CAPACITATED.**

SEC. 2. **Separability Clause.** - If any provision or part hereof, is held
invalid or unconstitutional, the remainder of the law or the provision not otherwise
affected shall remain valid and subsisting.

SEC. 3. **Repealing Clause.** - Any law, presidential decree or issuance,
executive order, letter of instruction, administrative order, rule or regulation
contrary to, or inconsistent with, the provisions of this Act is hereby repealed,
modified, or amended accordingly.

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

Approved.