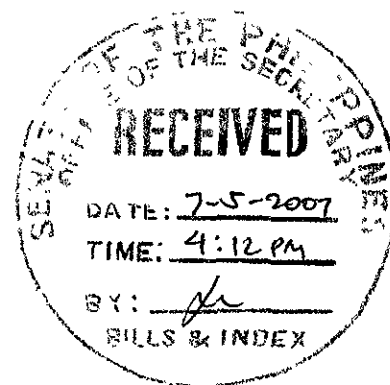


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



SENATE
S. B. No. 1195

Introduced by Senator Miriam Defensor Santiago


EXPLANATORY NOTE

In Article 941 of the Civil Code, a legacy of generic personal property is valid even if nothing of the same kind exists in the estate. If the said property does not form part of the estate, the administrator or executor must acquire the property subject of the legacy.

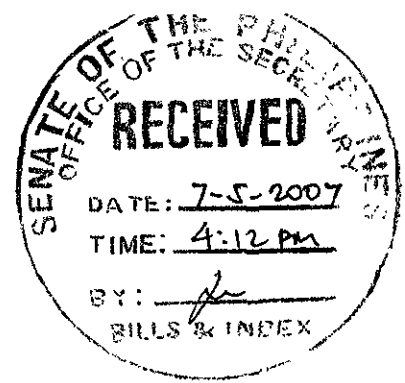
A different set of rules applies for devises of indeterminate real property. The validity of a devise of indeterminate real property depends on the existence of said property. The administrator is not obliged to acquire the property if it does not form part of the estate.

The difference in rules is a result of an adaptation of Roman law which treats personal property with more liberality. This rationale is no longer relevant simply because personal property is easier to acquire and dispose of. Hence, there is no compelling reason to apply a different set of rules for a legacy of general personal property on the one hand and a devise of indeterminate real property on the other hand.

It is believed that the same rules must apply to legacies and devises, such that a legacy or devise should only be valid if the property given exists in the estate of the decedent. This bill seeks to impose such a rule.*


MIRIAM DEFENSOR SANTIAGO
def

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



SENATE
S. B. No. 1195

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 AMENDING REPUBLIC ACT NO. 386, ALSO KNOWN AS THE CIVIL CODE,
3 ARTICLE 941, ON LEGACIES AND DEVISES

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

6 SECTION 1. The Civil Code, Article 941, is hereby amended to read as follows:

7 "Article 941. A legacy of generic personal property shall be valid
8 [even] ONLY if there be [no things] PERSONAL PROPERTY of [the
9 same] ITS kind in the estate.

10 A devise of indeterminate real property shall be valid only if there
11 be immovable property of its kind in the estate.

12 The right of choice shall belong to the executor or administrator
13 who shall comply with the legacy OR DEVISE by the delivery of [a thing]
14 PROPERTY OF THE KIND DESIGNATED IN THE LEGACY OR
15 DEVISE which is neither of inferior nor of superior quality."

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

19 SECTION 3. *Repealing Clause.* – Any law, presidential decree or issuance, executive
20 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
21 with, the provision of this Act is hereby repealed, modified or amended accordingly.

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

3 Approved,