


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

7 JUL -5 2017

SENATE  
 S. B. No. 1204

RECEIVED BY: 


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Introduced by Senator Miriam Defensor Santiago

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#### 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.

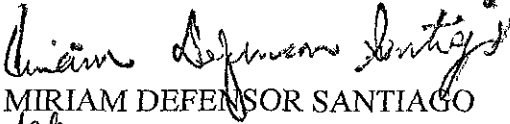
However, instead of achieving this desired result, P.D. No. 1818, since its issuance on 16 January 1981, has been used to mock the judicial system by serving as a protective mantle to render inutile attempts to check possible government excesses, as we see in *City of Angels vs. Court of Appeals*, 261 SCRA 107 (1996). Thus, the Supreme Court itself, in *Genaro R. Reyes Construction, Inc. vs. Court of Appeals*, 234 SCRA 116, 126 (1994), "entertain[s] serious doubts in regard to the constitutionality of P.D. 1818."

P.D. No. 1818 should be amended because it violates the above doctrine. Citing *Zwickler vs. Koota*, 19 L ed 2d 444 (1976), in *Adiong vs. Comelec*, 207 SCRA 712, 719 (1992), 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.\*

  
MIRIAM DEFENSOR SANTIAGO  
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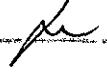
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\* This bill was originally filed during the Thirteenth Congress, First Regular Session.

FOURTEENTH CONGRESS OF THE REPUBLIC)  
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SENATE  
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AN ACT  
AMENDING PRESIDENTIAL DECREE NO. 1818, SECTION 1 ON JURISDICTION

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

SECTION 1. Presidential Decree No. 1818, Section 1, is hereby amended to read as follows:

“Section 1. 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 an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or governmental official from proceeding 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. UNLESS THE MATTER IS OF EXTREME URGENCY INVOLVING NATIONAL INTEREST, SUCH THAT UNLESS A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, OR PRELIMINARY MANDATORY INJUNCTION IS ISSUED, GRAVE INJUSTICE AND IRREPARABLE INJURY WILL ARISE, AND PROVIDED THE APPLICANT SHALL FILE A BOND, IN AN AMOUNT FIXED BY THE COURT, TO THE EFFECT THAT SUCH BOND SHALL ACCRUE IN FAVOR OF THE GOVERNMENT IF THE

1 COURT SHOULD FINALLY DECIDE THAT THE APPLICANT WAS NOT  
2 ENTITLED THERETO.”

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

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

8 Approved,