

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2004



Introduced by **ATTY. MAGTANGGOL T. GUNIGUNDO I**

EXPLANATORY NOTE

The main thrust of this bill is to amend Presidential Decree (PD) 957 or the Subdivision and Condominium Buyer's Protective Decree with the end in view of instituting reform measures, making it more responsive and attuned to the needs of the present times. This re-filed bill is originally HB 4316 that we filed in the 15th Congress which was extensively discussed and consolidated by the Committee on Housing and urban Development and was approved on Third and Final Reading in the House of Representatives but the Senate counterpart bill was not taken up for deliberations.

It aims to increase the penalties provided under PD 957 to serve as a deterrent to the habitual and deliberate violation of the same by unscrupulous developers and, thereby, ensure further protection to the buyers of subdivision lots and condominium units.

Key provisions of the bill would make simpler and unequivocal the provision that a certificate of registration does not vest the owner or dealer of a project the authority to sell without the necessary license to sell. It likewise mandates the registration by the developer of a contract to sell under an installment scheme, the registration expenses of which would be shared proportionately by the seller and the buyer, on top of the mandate for the seller to register all deeds of sale of subdivision lots and condominium units that are already paid in full at his expense. It further mandates that the said registration of a contract to sell shall be cancelled by the proper Register of Deeds, without the need of a court order, upon execution by the developer of an affidavit that the cancellation of rescission was due to default on the part of the buyer and further mandating that disputes between the contracting parties regarding the cancellation of the registration of the registration of a contract to sell shall be adjudicated upon by the Housing and Land Use Regulatory Board (HLURB).

This proposed measure further mandates the inclusion in the Deed of Sale covering a lot or unit subject of a mortgage a partial release clause or a provision ensuring the immediate release of the title to the buyer of a lot or unit upon full payment. It would also require a developer to complete a project within eighteen (18) months from the date of issuance of license for said project and should a developer fail to complete a project due to a fortuitous event, the HLURB is mandated to determine the reasonable time within which the project must be completed. It thus gives the HLURB the authority, upon written notice to the developer or through publication where the developer cannot be located, to declare a subdivision project abandoned where the developer fails to complete the development of the said project after 18 months after a fortuitous event, and the roads in said abandoned project shall become public in character one (1) year after it was pronounced abandoned and shall become the property of the local government unit that has jurisdiction over them.

By the same token, it prohibits the change or alteration of roads, open spaces, infrastructures, facilities for public use and/or other forms of subdivision or condominium development by the developer unless permitted by the HLURB and the homeowners association or condominium corporation gives its written consent or conformity or, in the absence of such homeowners association or condominium corporation, the required consent or conformity should come from the majority of the subdivision lot or condominium unit buyers who have paid at least fifty percent (50%) of the purchase price. It also frees the developer from any

liability for the delay or non-issuance of title if he can show proof that he has properly processed and submitted the required documents to the concerned government agencies and the delay is not due to his fault or where the non-issuance is pursuant to a court order. It also mandates the developer to redeem, in the event of a mortgage over a lot or unit is outstanding at the time of the issuance of the title to the buyer, the mortgage or the corresponding portion thereof immediately from such issuance so that the title over the fully paid lot or unit may be secured and delivered to the buyer and the mortgagee is enjoined not to unreasonably refuse release of such title.

It would likewise modify the provision regarding the donation of roads and open spaces to local governments where developers are mandated to donate the roads, alleys and sidewalks, and open spaces reserved for schools, places of worship, hospitals, health centers, and barangay centers to the local government with the consent of the homeowners association upon consultation, and acceptance by said local government is mandatory. Furthermore, it mandates the donation of other open spaces and areas reserved exclusively for parks, playgrounds, recreational uses, clubhouses, and other similar facilities and amenities to the homeowners association or to the condominium corporation with the consent of the local government unit concerned.

Its penal provisions increases the administrative fine to not more than fifty thousand pesos (P50,000) for each violation of any of the provision of the decree or of any rule or regulation thereunder which shall be payable to the Board. It also provides that violation of any provision of the law shall be penalized, but gives emphasis particularly on the following violations: a) failure to complete the development of the project within the prescribed period, b) failure to deliver the title, c) failure to refund the purchase price or the instalment payment made in violation of the provision on the non-forfeiture of payment in the event of desistance by the buyer to further pay due to the failure to complete the development of the project according to the approved plans and within the prescribed period, and d) failure to follow construction specifications or poor workmanship resulting to sub-standard units or to construction defects.

It also provides for the following penalties- i) on the 1st offense, a fine of not more than P500,000 or 50% of the total purchase price of the property as stated in the contract to sell or deed sale, including all the charges imposed by the developer whichever is higher and/or a four-year imprisonment, ii) 2nd offense, a fine of not more than P750,000 or 75% of the purchase price of the property, including all the charges imposed by the developer whichever is higher and/or a seven-year imprisonment, and, iii) 3rd offense, a fine of not more than P1,000,000 or 100% of the total purchase price of the property, including all the charges imposed by revocation of the business permits and licenses. It also provides for an additional fine of not less than P500,000 that will be charged for every real estate or condominium unit sold by reason of advertisements.

Immediate approval of this bill is earnestly sought.


ATTY. MAGTANGGOL T. GUNIGUNDO I

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Introduced by **ATTY. MAGTANGGOL T. GUNIGUNDO I**

AN ACT

INSTITUTING REFORMS IN THE SUBDIVISION AND CONDOMINIUM BUYERS' PROTECTIVE DECREE

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

SECTION 1. Short Title. – This Act Shall be known as *“The Subdivision and Condominium Buyers’ Protective Decree Amendments of 2013.”*

SECTION 2. Declaration of Policy. –It is the policy of the State to undertake, in cooperation with the private sector, a comprehensive and continuing urban development. Toward this end, certain remedial reforms ought to be introduced to the operational provisions of the Subdivision and Condominium Buyers’ Protective Decree in order to strengthen and make the same responsive and attuned to the needs of the present times.

SECTION 3. Remedial Provisions. –For the purpose of this Act in order to strengthen Presidential Decree No. 957, entitled: *“Regulating the Sale of Subdivision Lots and Condominiums, Providing Penalties for Violation Thereof”* otherwise known as *“The Subdivision and Condominiums Buyers Protective Decree”*, the following provisions are hereby amended:

(a) Paragraph (n), Sec. 2 of P.D 957 is hereby amended to read as follows:

“(n) [Authority. “Authority”] **BOARD.** “**BOARD**” shall mean the [National Housing Authority] **HOUSING AND LAND USE REGULATORY BOARD.**” The term “Authority” found elsewhere in the decree is hereby amended to read as **“BOARD”**.

(b) Section 3 of P.D. No. 957 is hereby amended to read as follows:

“Sec. 3. [National Housing Authority.- The National Housing Authority] HOUSING AND LAND USE REGULATORY BOARD. – THE HOUSING AND LAND USE REGULATORY BOARD shall have exclusive jurisdiction to regulate the real estate trade and business in accordance with the provisions of this Decree.

(c) Paragraph 1, Section 5 of P.D. No. 957 is hereby amended to read as follows:

“SEC. 5. License to Sell. - A CERTIFICATE OF REGISTRATION DOES NOT AUTHORIZE [S] such owner or dealer [to whom has been issued a registration certificate shall not, however, be authorized] to sell any subdivision lot or condominium unit in the registered project [unless] **UNTIL** he shall have first obtained a license to sell the project within two weeks from the registration of such project.”

(d) Paragraph 1, Section 17 of P.D No. 957 is hereby amended to read as follows:

"SEC. 17 Registration.- All [contacts to sell,] deeds of sale [and other similar instruments relative to the sale or conveyance] of [the] subdivision lots and condominiums units, [whether or not the] **WHOSE** purchase price is **ALREADY** paid in full[,] shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated **AT HIS EXPENSE. IN CASES OF INSTALLMENT PAYMENTS, THE CONTRACT TO SELL SHALL ALSO BE REGISTERED BY THE DEVELOPER WITH THE PROPER REGISTER OF DEEDS, THE EXPENSE FOR WHICH SHALL BE SHARED PROPORTIONATELY BY THE SELLER AND THE BUYER: PROVIDED, HOWEVER, THAT IN CASE OF CANCELLATION OR RESCISSION OF SAID CONTRACT TO SELL, SUCH REGISTRATION OF CONTRACT TO SELL SHALL BE CANCELLED BY THE PROPER REGISTER OF DEEDS, WITHOUT NEED OF ANY COURT ORDER, UPON EXECUTION BY THE SELLER OF AN AFFIDAVIT THAT SAID CONTRACT TO SELL HAS BEEN CANCELLED OR RESCINDED DUE TO DEFAULT ON THE PART OF THE BUYER, WITHOUT PREJUDICE TO THE RIGHTS OF THE BUYER UNDER REPUBLIC ACT NO. 6552, OTHERWISE KNOWN AS THE "REALTY INSTALLMENT BUYER PROTECTION ACT": PROVIDED, FINALLY, THAT THE BOARD SHALL HAVE JURISDICTION OVER DISPUTES BETWEEN THE BUYER AND THE SELLER REGARDING THE CANCELLATION OF THE REGISTRATION OF A CONTRACT TO SELL."**

(e) Section 18 of P.D No. 957 is hereby amended to read as follows:

"SEC. 18. Mortgages. – No mortgage on any unit or lot shall be made by the owner or developer without prior written approval of the [Authority] **BOARD**. Such approval shall not be granted unless it is shown that the proceeds of the mortgage loan shall be used for the development of the condominium or subdivision project and effective measures have been provided to ensure such utilization. The loan value of each lot or unit covered by the mortgage shall be determined and the buyer thereof, if any shall be notified before the release of the loan. **THE DEED OF SALE OR CONTRACT TO SELL COVERING A LOT OR UNIT SUBJECT OF A MORTGAGE SHALL INCLUDE A PARTIAL RELEASE CLAUSE OR A PROVISION GUARANTEEING THE IMMEDIATE RELEASE OF THE TITLE TO SAID LOT OR UNIT UPON FULL PAYMENT BY ITS BUYER.**

The buyer may [, at his option pay his] **OPT TO PAY THE** instalment for the lot or unit directly to the mortgage who shall apply the payments to the corresponding mortgage indebtedness secured by the particular lot or unit being paid for, with a view to enabling said buyer to obtain title over the lot or unit promptly after full payment thereof.

"IN CASE A COMPLAINT IS FILED FOR THE IMMEDIATE RELEASE OF THE TITLE UPON FULL PAYMENT OF A PROPERTY, THE MORTGAGEE MUST BE IMPEADED AS AN INDISPENSABLE PARTY."

(f) Section 20 of P.D No. 957 is hereby amended to read as follows:

"SEC. 20. Time of Completion.- Every owner or developer shall construct and provide the facilities, improvements, infrastructures and other forms of development, including water supply [and], lighting facilities, **AND DEVELOPMENT OF ROADS, AS PROVIDED FOR** [which are offered and indicated] in the approved subdivision or condominium plans, brochures, prospectus, printed matters, letters or in any form of advertisement, within [one year] **EIGHTEEN MONTHS** from the date of issuance of the license for the subdivision or condominiums projects or such other period of time as may be fixed by the [Authority] **BOARD: PROVIDED, THAT IN CASES OF FORTUITOUS EVENTS, THE BOARD SHALL THEREAFTER, UPON EVALUATION OF THE NATURE OF THE PROJECT AND THE CAPABILITY OF THE DEVELOPER TO COMPLETE THE SAME, DETERMINE THE REASONABLE TIME WITHIN WHICH THE PROJECTS SHALL BE COMPLETED.**

"IN THE EVENT THAT THE OWNER OR DEVELOPER FAILS TO COMPLETE THE DEVELOPMENT OF THE PROJECT AFTER THE PERIOD OF EIGHTEEN (18) MONTHS MANDATED ABOVE FOR ITS COMPLETION FROM THE DATE OF THE ISSUANCE OF THE LICENSE FOR THE SUBDIVISION OR CONDOMINIUM PROJECTS, AND UNLESS THE BOARD SETS ANOTHER TIME FOR COMPLETION OWING TO THE CIRCUMSTANCES STATED ABOVE, THE BOARD SHALL, UPON WRITTEN NOTICE TO THE DEVELOPER OR THROUGH PUBLICATION WHERE THE DEVELOPER CANNOT BE LOCATED, DECLARE THE PROJECT ABANDONED AND THE ROADS IN THE ABANDONED PROJECTS SHALL BECOME PUBLIC IN CHARACTER ONE YEAR FROM THE DECLARATION OF ABANDONMENT OF THE PROJECT."

(g) Section 22 of P.D No. 957 is hereby amended to read as follows:

SEC. 22. Alteration of Plans. – No owner or developer shall change or alter the roads, open spaces, infrastructures, facilities for public use and/or other forms of subdivision **OR CONDOMINIUM** development as contained in the approved subdivision **OR CONDOMINIUM** plan and/or represented in its advertisements, without the permission of the [Authority] **BOARD** and the written conformity or consent of the duly organized homeowners association **OR CONDOMINIUM CORPORATION**, or in the absence of the latter, by the majority of the [lot] buyers [in the] **OF** subdivision **LOTS OR CONDOMINIUM UNITS WHO HAVE ALREADY PAID AT LEAST FIFTY PERCENT (50%) OF THE PURCHASE PRICE.**

(h) Section 25 of P.D No. 957 is hereby amended to read as follows:

SEC. 25. Issuance of Title. _ The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit a[.]:**PROVIDED, THAT WHERE THE OWNER OR DEVELOPER PROPERLY PROCESSED AND SUBMITTED THE DOCUMENTS TO THE GOVERNMENT AGENCIES CONCERNED FOR THE ISSUANCE OF TITLE AND CAN SHOW PROOF OF THE SAME AND THE DELAY IN THE ISSUANCE OF TITLE IS NOT THE FAULT OF SUCH OWNER OR DEVELOPER OR WHERE THE NON-ISSUANCE IS PURSUANT TO A COURT ORDER, THE OWNER OR DEVELOPER SHALL NOT BE HELD LIABLE FOR SUCH DELAY OR NON-ISSUANCE OF TITLE.**

"No fee, except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title, In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof [within six months] **IMMEDIATELY** from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith. **IN SUCH A CASE, THE MORTGAGE SHALL NOT UNREASONABLY REFUSE RELEASE OF THE TITLE BASED ON THE LOAN VALUE THEREOF.**"

(i) Section 27 of P.D. No. 957 is hereby amended to read as follows:

"SEC. 27. Other Charges.- No owner or developer shall levy upon any lot or unit buyer a fee for an alleged community benefit. Fees to finance services for common comfort, security and sanitation may be collected only by a properly organized homeowners association **OR CONDOMINIUM CORPORATION** and only with the consent of a majority of the lot or unit buyers actually residing in the subdivision or condominium project.

(j) Section 31 of P.D. No. 957, as amended by the P.D No. 1216, is hereby amended to read as follows:

"SECTION 31. Roads, Alley, Sidewalks and Open Spaces- The owner [as] **OR** developer of a subdivision shall provide adequate roads, alleys and sidewalks. For subdivision projects one (1) hectare or more, the owner or developer shall reserve thirty percent (30%) of the gross area for open space **EXCLUSIVELY FOR ROADS, ALLEYS SIDEWALKS, SCHOOLS, PLACES OF WORSHIP, HOSPITALS, HEALTH CENTERS, BARANGAY CENTERS, PARKS, PLAYGROUNDS, RECREATIONAL USES, CLUBHOUSES, AND OTHER SIMILAR FACILITIES AND AMENITIES.**

Such open space shall have the following standards allocated exclusively for parks, playgrounds and recreational use:

- a. 9% of gross area for high density or social housing (66 to 100 family lots per gross hectare)
- b. 7% of gross area for medium-density or economic housing (21 to 65 family lots per gross hectare)
- c. 3.5% of gross area for low-density or open market housing (20 family lots and below per gross hectare)

These areas reserved for parks, playgrounds and recreational use shall be [non-alienable public lands, and non-buildable] **EXCLUSIVELY FOR THEIR INTENDED PURPOSES.** The plans of the subdivision project shall include planting on such parts of the subdivision as may be designated by the [Authority] **BOARD.**

Upon their completion **PURSUANT TO SECTION 20 HEREOF AND** as certified to by the [Authority] **BOARD**, the roads, alleys, **AND** sidewalks, and play grounds, shall, **WITH THE CONSENT OF THE HOMEOWNERS'ASSOCIATION UPON CONSULTATION**, be donated by the owner or developer to the city or municipality and it shall be mandatory for the local governments to accept: **PROVIDED, THAT OPEN SPACES RESERVED FOR SCHOOLS, PLACES OF WORSHIP, HOSPITALS, HEALTH CENTERS, AND BARANGAY CENTERS SHALL BE DONATED BY THE OWNER OR DEVELOPER TO THE CITY OR MUNICIPALITY AND IT SHALL LIKEWISE BE MANDATORY FOR THE LOCAL GOVERNMENTS TO ACCEPT:** Provided, however, that the **OPEN SPACES RESERVES EXCLUSIVELY FOR parks, [and] playgrounds, [may] RECREATIONAL USES, CLUBHOUSES, AND OTHER SIMILAR FACILITIES AND AMENITIES SHALL** be donated to the Homeowners Association of the project with consent of the consent of the city or municipality concerned. **UPON ACCEPTANCE OF THE DONATION BY THE CITY MUNICIPALITY OR THE HOMEOWNERS'ASSOCIATION CONCERNED, [n] no portion of the [parks and playgrounds] AREA** donated thereafter shall be converted to any other purposes or purpose: **PROVIDED, FURTHER, THAT ROADS IN SUBDIVISIONS WHICH HAVE BECOME PUBLIC IN CHARACTER ONE YEAR AFTER THE DECLARATION OF ABANDONMENT BY THE BOARD OF THE SUBDIVISION PROJECT WHERE THEY ARE LOCATED SHALL IPSO FACTO BECOME THE PROPERTY OF THE LOCAL GOVERNMENT UNIT THAT HAS JURISDICTION OVER SAID ROADS."**

(k) Section 38 of P.D No. 957 is hereby amended to read as follows:

"SEC. 38. Administrative Fines.- The [Authority] **BOARD** may prescribe and impose **A** fine[s] not exceeding [ten] **FIFTY** thousand pesos (**P50,000.00**) for **EACH** violation[s] **OF ANY** of the provisions of this Decree or of any rule or regulation thereunder. Fines shall be payable to the [Authority] **BOARD** and enforceable through writs of execution in accordance with the provisions of the Rules of Court."

(I) Section 39 of P.D. No. 957 is hereby amended to read as follows:

"SEC. 39. Penalties.- Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree, **INCLUDING, BUT NOT LIMITED TO THE FAILURE TO COMPLETE THE DEVELOPMENT OF THE PROJECT WITHIN THE PRESCRIBE PERKIOD PURSUANT TO SECTION 20 HEREOF, FAILURE TO REFUND THE PURCHASE PRICE OR THE INSTALLMENT PAYMENT MADE IN VIOLATION OF SECTION 23 HEREOF, FAILURE TO DELIVER THE TITLE PURSUANT TO SECTION 25 HEREOF, FAILURE TO FOLLOW CONSTRUCTION SPECIFICATIONS OR POOR WORKMANSHIP RESULTING TO SUB-STANDARD UNITS OR TO CONSTRUCTION DEFECTS,** shall [upon conviction, be punished by a fine of not more than twenty thousand pesos (P20,000.00) and/or imprisonment of not more than ten years: *Provided, That in*] **SUFFER:**

"(A) ON THE FIRST OFFENSE, A FINE OF NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) OR FIFTY PERCENT (50%) OF THE TOTAL PURCHASE PRICE OF THE PROPERTY AS STATED IN THE CONTRACT TO SELL OR DEED OF SALE, INCLUDING ALL THE CHARGES IMPOSED BY THE DEVELOPER WHICHEVER IS HIGHER AND/OR IMPRISONMENT OF NOT MORE THAN FOUR (4) YEARS, AT THE DISCRETION OF THE COURT;

(B) ON THE SECOND OFFENSE, A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY THOUSAND PESOS (P750,000.00) OR SEVENTY-FIVE PERCENT (75%) OF THE TOTAL PURCHASE PRICE OF THE PROPERTY AS STATED IN THE CONTRACT TO SELL OR DEED OF SALE, INCLUDING ALL THE CHARGES IMPOSED BY THE DEVELOPER WHICHEVER IS HIGHER AND/OR IMPRISONMENT OF NOT MORE THAN SEVEN (7) YEARS, AT THE DISCRETION OF THE COURT; AND

(C) ON THE THIRD OFFENSE, IN ADDITION TO A FINE OF NOT MORE THAN ONE MILLION PESOS (P1,000,000.00) OR ONE HUNDRED PERCENT (100%) OF THE TOTAL PURCHASE PRICE OF THE PROPERTY AS STATED IN THE CONTRACT TO SELL OR DEED OF SALE, INCLUDING ALL THE CHARGES IMPOSED BY THE DEVELOPER WHICHEVER IS HIGHER AND/OR IMPRISONMENT OF NOT MORE THAN TEN (10) YEARS, AT THE DISCRETION OF THE COURT, THE BUSINESS PERMIT AND LICENSES, IN THE CASE OF A BUSINESS ENTITY OR ESTABLISHMENT, SHALL BE REVOKED OR CANCELLED.

IF BY REASON OF ADVERTISEMENTS IN VIOLATION OF THIS DECREE, A REAL ESTATE OR A CONDOMINIUM UNIT IS SOLD, AN ADDITIONAL FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND (P500,000.00) SHALL BE IMPOSED FOR EVERY UNIT SOLD.

IN the case of corporations, partnership, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto."

SEC. 4. Repealing Clause. – All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or part or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. Separability Clause.- If for any reason, any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be force and effect.

SEC. 6. Effectivity Clause. – The Act shall take effect fifteen (15) days after completion of its publication in the Official Gazette or at least two (2) newspapers of general circulation.

Approved,