

RA 6652

*Sen. Salonga*

*File*

Republic of the Philippines

SENATE

Manila

COMMITTEE ON COMMERCE & INDUSTRY

RE : Senate Bill No. 775  
DATE : March 3, 1972  
TIME : 5:00 P. M.  
PLACE : Senate Session Hall

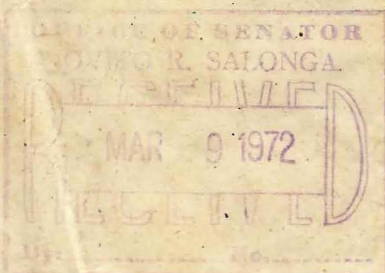
P R E S E N T:

- 1. Sen. Ernesto Maceda - - - - - Chairman
- 2. Sen. Helena Benitez - - - - - Member

S T A T E M E N T S O F:

- 1. Delegate Dante Zaraga  
Former Pres. Phil. Ass'n of Realtors
- 2. Mr. Artemio U. Valencia  
President, Phil. Ass'n of Realtors
- 3. Atty. Serrano  
Past Pres. Subdivision Ass'n of the Philippines
- 4. Mr. Bernie Asconi  
President, Subdivision Ass'n of the Phil.
- 5. Mr. Soliven  
Realtor
- 6. Councillor Precioso Perlas  
Quezon City
- 7. Mr. Barcelona  
Ayala Corporation
- 8. Mr. Santico  
Confederation of Government Employees

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CHAIRMAN: The hearing of the Committee on Commerce and Industry will please come to order. The time is exactly 4:58 P. M. The subject matter of this afternoon's hearing is Senate Bill No. 775 which we have tentatively called the Realtors Installment Buyers Protection Act. The purpose of the hearing is primarily to determine the reaction of the subdivision owners and realtors who are very much involved and affected by this bill. Before we call on the President of the Philippine Association of Realtors Board, may we first call on ConCon Delegate Dante Zaraga.

SEN. BENITEZ: Mr. Chairman, before we proceed to that, could I also for the record say that the Committee on Housing, Urban Development and Resettlement which I am the Chairman would like to associate this Committee of yours because I think this subject is one of extreme importance to the Committee itself and therefore would like to make this official. I think it would strengthen whatever action the Senate would take when two committees are the ones sponsoring a hearing, then we could have simultaneous action.

CHAIRMAN: Well, we are grateful to the distinguished Chairman of the Committee on Housing, Urban Development and Resettlement for expressing her interest in this matter and we welcome such interest.

Now, Mr. Dante Zaraga as I understand, the former President of the Philippine Association of Realtors Estate Board, right now a ConCon delegate. May we

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have your views on this matter, Mr. Zaraga?

DEL. ZARAGA: Yes, sir. As I go through this Senate Bill 775 which <sup>is</sup> the Realtors Installment Buyers Protection Act, I fully believe that as a realtor, I would not say it's about time but it is a very good thing for buyers throughout the country to be also having a protection -- they will have a say. Normally now on existing laws they are at the discretion of the realtors especially so within the first two years whether it would be foreclosed or not. As I go through the bill, in principle, of course, maybe some of the details here would be improved upon, but in principle, adopting the insurance concept, the cash surrender value, I think it is fair enough for buyers and fair enough for sellers, the owners of the land and especially so for realtors who are practically in the middle, who are selling these for subdivision owners to lot buyers. I think this concept would be fair enough and justified in principle. Of course, maybe there are some points here like, on cash surrender values, which I think the President now of the PARE and I were discussing like interest rate and so on, on principals regarding refunds, could be adjusted and discussed. But I will leave that with him now to discuss this matter. For the moment, generally, in principle, I think this would be a big boost and I am sure many more real estates could be sold in the long run because of this protection act.

CHAIRMAN: Thank you, Delegate Zaraga. May we hear now from Mr. Artemio Valencia, President of the Philippine

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MR. VALENCIA: Senator, Maceda, I represent the Philippine Association of Realtors Board. And I would like to state here that we are in perfect agreement with you in principle to protect the buyers of subdivision lots. We have no quarrel with you about that because we believe that, we, in the realtors we have also our image to protect and we want to be as fair to our principals as well as to the lot buyers. Now, as I have gone through the bill, personally, I am in agreement in general to the provisions of the bill, with the exception of page, column 9-A.

CHAIRMAN: The percentage?

MR. VALENCIA: No, this regards the payments -- total payment which has to be refunded to the buyer in specified payments. Now, it does not mention in here about the interest on the payments made. Because installment payments covers interests on the principal and payments on the principal. There are two items in installment payment. Now, interest payments are considered expense and it is deductible by the land buyers from their income tax. And interest payment is considered as an income on the part of the seller, and it is charged on our income tax and we pay income tax on that. So, I believe that we will have to discuss this matter here, together with my colleagues development of the subdivision business, that there should be some adjustments on the question of interest payment. Because as far as I am concerned, I think it should be the principal payment should be the one refunded in accordance with this schedule, No. 1 observation I have on this bill. No. 2, is that I would

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like that possession be defined in this bill. What do you mean by possession? Is it possession when a buyer builds a house thereon? Or is it upon the execution of the contract of sale? That is a question that I would like to leave for your consideration.

Now, in general, I believe that these provisions of the bill is okay and it is for the protection of the buyers of which we are also interested. That is all my comment, Mr. Chairman.

CHAIRMAN: Unless, Senator Benitez has some questions I would rather ask all the others so we can get a general view point of the ideas before we clarify questions.

Mr. Serrano, you represent the Subdivision Owners Association of the Philippines?

MR. SERRANO: Well, actually, I am the immediate past President of the Subdivision Owners Association of the Philippines. To my left is the incumbent President. I am here in my own capacity/<sup>also</sup> and I have been authorized to speak in behalf of the organization as advisers of said organization. We would like to state, off hand, that we are very grateful for being invited here. It is very kind of the Committee to hear us out before this thing is sent through for a plenary session. Now, we received the invitation only early this morning at 10:00 o'clock and we had to rush, get a copy and so on, and we have had just a few minutes to look it over. But off hand, perhaps we can state our position just as briefly as this. You see, perhaps, the one business throughout the country, I may be wrong, if I am exaggerating allow me to do a lot of it. This

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is one business throughout the country that entails a great deal of money -- a great deal of knowhow and experience. And where the cash flow is not made effective also. The risk development goes through is tremendous. Now, because it entails a great deal of money, sometimes the resources of a developer may go only as far as having to cover part payment for the acquisition of the lot. Because compared to other businesses, we don't speak on y in terms of thousands, No. We don't also speak in terms of hundreds of thousands, we go in terms of millions to acquire, for example, a 50 hectares piece of property. And put it at P10.00 is already P5M. And if you were to pay 25% on that that is more than P1B/ already . And you are there only with just a price of property yet, you have to bother about payment of the balance. And then you have to borrow, you have to have a lot of money also to develop because the real estate business these days become extremely competitive, and if you don't develop you can't sell and it takes a great deal of money.

Now, we are all for helping out lot buyers. This is the essence of our business. Like the banking system we depend upon the good will and the good faith, and the public faith in our business. Because without it we can't survive. Especially these ~~xxxx~~ past few years as I said, this has become extremely competitive. But what buys from mortgagor money? And I think that the Committee, as well as, we who are in business are aware that if there is any other time in the history of our people that money has become so scarce, it is this time. We don't only think

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in terms of borrowing and bothered about interest schedule. Many a time, we have to reckon with desired arrangements. And if we devote, especially on occasion where we resort to borrowing from financing institution, we are charged 3 per cent a month penalty on the amount that is unpaid. While we are all for it, as it was mentioned by our previous speakers, we are all for the protection of all our lot buyers. I was also wondering whether there could be a similar arrangement by which we could afford as much to them as we could be given as much by the buyers. The banks were never lenient with. If we don't pay they charge us so much and within a certain period of time. Lately it takes only three or four months, if you have not paid any of your accounts you are sent already a foreclosure notice, and so on.

While we are all for it, in principle, we wish that the Committee also would look into the problem of the developers as well. If money were easy to come by these days, if interest payments were slow as they used to be, if there has been no side arrangements to borrow money then, we can afford as much leniency<sup>ier</sup> that we wish we could to all our buyers. But we wish the Committee to understand that an effective cash flow and cash flow can be made effective only if in programming our land development, expenses and so on, the balances on our accounts, we depend a great deal on payment and payments must come in time. And the only weapon that is left to developers is to cancel if the account is not paid.

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Now, as a matter of contract, we give three months to lot buyers. If they are unable to pay within a total of three arrearages, well, there is where per contract may be cancelled. But as a matter of practice, we still don't cancel them at once. As I said, we depend also a great deal on patronage of the people. We don't do just like that. We wait, we send notices to them before we act on it, and it takes usually a year sometimes, before we even act on it. So that what I am trying to suggest is sometimes even without exacting from anyone because this is something that by the essence of our own business we depend, we do it already voluntarily for the benefit of lot buyers. I don't know how others do it, but I think I speak on behalf of most, if not all of the developers attached to our organization.

Now, let us go into some provisions. Let us take, for example, that provision that says that <sup>a</sup>lot buyer shall be entitled to a grace period of two months per year of installment. Let us just take that provision. If a lot buyer has defaulted, let us say, on the fifth year, he is entitled to something like 10 months of grace. In fact, let us go even to the extreme. Let us take 8 years. If a lot buyer has defaulted on the 8th year, he has 16 months of grace. Sixteen months after 8th year would practically have eaten up the balance of the terms. So, if a lot buyer were intentionally not pay because he has a grace period of 16 months, he would ride on the very lot within the next 16 months to up in value before he may pay again. That is problem No. 1.

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Let us take another problem. While there is a two month grace period per every year of installment schedule, what is also to stop a lot buyer, for example, from intentionally doing it every year? And then after using up the grace period pay off let us say two or three months and then go into another default. There is no provision here that says that it may be availed only once. Because since there is no such prohibition this may be availed every so often by making payment in between. That is another problem.

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ATTY. SERRANO: Third problem: If this is to be resorted to by all lot buyers and I imagine they will because this is open to them as a matter of right, what is to happen to a company such as ours where we depend upon receivables? If 80 or 90% if not all of them were to avail of this so-called grace period we will be in a complete standstill.

Problem number four: All these payments that we received in the intervening period we pay income on that; we pay taxes on that; we pay real estate taxes; income taxes, PIR, gross receipts, etc. What if we were now to return the money without taking into account the amounts we paid in between. There would be a need to adjust tax schedules. I don't know whether the BIR would allow that unless a tie up in between can be arranged.

We would like the Committee, if *it* may, to take note of this -- a buyer always has the ability whenever there is an exchange in the <sup>position</sup> possession of the lot buyer has always the ability to transfer rights. So, I assume that before a lot buyer for example buys any lot it is expected of him to take the amount he is going to pay and the instalment schedule. Now, I would consider it foolish on the part of any buyer not to take that into account in budgeting his own expenses. But assuming a situation at any given time, suppose, after about three or four years the husband perhaps, <sup>is</sup> fired from his job. With the usual grace period allowed under the contract of three months, he has all the ability to sell his right, he has all the ability to transfer his right and three months would be more than enough for him to do so. As a matter of fact, this is what we do and what we keep telling our lot buyers is this: Whenever there is any

change in positions for them to come to us and let us help them sell this lot. Now, if there is a buyer who doesn't think about it or does not even heed that counsel even under the law protection is given only to those who do not sleep on their rights, let alone their interests. Well, I don't want to use most of the time so may I pass this over to Mr. Asconi, the President.

CHAIRMAN RUCEDA: May I have your name again please?

MR. ASCONI: Ben Asconi.

Mr. Chairman, I would like to apologize for coming the way I am but we received the invitation at 12:30 this afternoon and I have no time to prepare. But at that time, since that time, we called an urgent meeting of SCAP this morning because we want to present a more representative point of view rather than personal ones. So, we had a meeting this afternoon and the session was just finished and Atty. Serrano had briefly summarized what we had discussed in toto. But, since then, I have second thoughts although, basically all of us here feel, Tenlong, Dento, Vic, Atty. Serrano and myself feel that this is a sound law and we feel that there is a need for protection on the lot buyers' part. We feel that this law will encourage buyers to buy lots because instead of leaving their money in the bank in the form of savings they would now put this money to work so to speak by investing it in land and with the steps that the government has taken in encouraging investments in housing, this this could be the solution to many of our personal problems, but we could not, in my opinion implement this in view of the fact that as this proposed law now stand, it seems to be difficult to foresee all the problems that

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would arise. So, we have tried to limit ourselves to what we could see immediately and what we could see immediately is on the question that have to be answered: Would this law solve the basic problem on protection? In our experience which had been sizable, the percentage of forfeiture in our particular case and I don't want to speak for the others, I am sure that the figures will not exceed the figures that I mentioned is the minimum of two and maximum of 5 per cent of the lot sold are forfeited during a 10-year period. So, the number of forfeitures is minimal, really and the problem is not as expensive as we think but on the other aspect, we feel that if this protection is offered and we could capitalize on the protection properly by abiding with the law as passed, that would benefit to a very large extent and from that point of view, we would like to help this Committee by suggesting the probable repercussions of some aspects of the law. But the thing that is at the back of my mind is would it really help or wouldn't this law now try to encourage lot buyers to fall in arrears and make it more difficult for them to bring their accounts up to date. From our experience, if a buyer falls in arrears from four, five or six months increases arrears and when steps are taken to have this account up to date, he will generally have difficulty in bringing it up to date immediately. Can you imagine, Mr. Chairman, if he is 16 months in arrears of the burden that would be imposed on him to update his account/rather than lose his lot. We think that there should be some kind of a graduated scale within which he should be given time to pay. Secondly, he should not be encouraged to fall in arrears because it would be difficult to be in arrears, a sizable arrears once incurred. But it is so easy for

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him to make arrangement during the grace period on how he could bring this account up to date.

The very important point that Manny mentioned is on the resales. We also encourage many of our buyers to sell their lots. As a matter of fact, we have encouraged many of our lot buyers and we have put up a separate office for this purpose. Whenever a buyer falls two or three months in arrears he is requested to see us to see how we could help him resell his lot rather than forfeit because we are not in the business of foreclosure. We are not banks. We feel that a satisfied buyer if he is treated properly and is given an opportunity to recover his investment he could bring in two or three sales.

SENATOR BENITEZ What is the format of your resale? Is it just to repay that fellow for.....

MR. ASCONI: I understand the question, Madam Senator. I will reply.

When the lot is still within the period of grace, I mean to say, if the buyer have not fallen more than four months or three months in arrears and many subdivision owners limit this to three months and the third month we are expected to collect, if within this period the buyer is authorized to resell at their price and this is general the fair market value of the property at the time they offered it for resale minus the commission that has to be paid on this particular sale. In short, if he is still within the grace period, he can, the buyer can offer the lot for sale less the market value, less the commission that will have to be paid to the agent. So, theoretically, this is 100% of the fair market value.

There is one fine point I would like to bring out here. One hundred per cent of fair market value at the

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time when the buyer decides to resell assuming it is on the 6th or 7th year, will be two or three times the buyer's acquisition cost.

SENATOR BENITEZ: Who decides the fair market value?

MR. ASCONI: Actually, the fair play of the supply and demand of the market. It is basically the price of other lots in that subdivision. In short, the buyer knows how much a subdivision is sold in that area and the buyer is free to resell that lot at the current market price.

SENATOR BENITEZ: Therefore, it would be upon the decision of the buyer to sell? You just look for the buyer?

MR. ASCONI: Yes, Madam, we look for the buyer, we ask for the need of the buyer and it is the lot buyer who sets the price depending on the current market price and how much he can get depending on the location in the subdivision.

SENATOR BENITEZ: Can you think of a scheme whereby this intention or the principle you are upholding as a conduct of developers could be insured for all? In other words, I think it is a very solitary position for the developers to take. It is almost a distinction between the pawnshop mentality and a rural bank or a progressive bankers position. And they would like this because it would establish a more positive <sup>relation</sup> between buyers and developers. This is one of the difficulties here, more often than not, the poor distressed owner is always forced to sell at the less favorable price. He is always discriminated upon and being taken advantage with. I know of one law which is the Building and Loan which is the oldest law in this respect.

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It reflected the conduct and the norm at the time it was made. That is one law that is specific and you give it a one year period and return everything except the interest for the period when it was not paid. Well, this is as I said reflective at the time when the law was made. I am not sure and I am checking it with Senator Maceda whether the other institutions, the other institutionalized savings are of the same nature and not being a lawyer, I am not familiar. But here, in the case of developers like your group you have already stated that this is the conduct you practice and probably you want to make it as an institution. I just wish that somehow, somewhere in the discussion you might just wish to suggest to the Committee something that would make this a norm of conduct.

MR. ASCONI: I believe that realtors really practice this.

SENATOR BERNIER: Which practice, the good or the bad?

MR. ASCONI: The good, naturally.

SENATOR BERNIER: I only get the bad and I get complaints here in the Senate.

MR. ASCONI: I have to admit that among the good there has to be some bad. But I believe that a law like this would eliminate this bad and we will only have the good. This is what we want.

CHAIRMAN MACEDA: You know, we had been informed of a case of an apparently reputable subdivision owner who, in a ten year period was able to sell his property about four or five times over. And as you said on the 6th or 7th year it might already be three times its acquisition cost and at that time when there are ready buyers in an attractive subdivision, the temptations to take advantage

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of this provision is much greater. And we don't argue with the good subdivision owners but we do have cases like this. As a matter of fact, we decided to limit it to this particular aspect so as to simplify the bill but if you get and look the other letters that we get like undeveloped raw lands being sold at attractive prices and afterwards the realtors disappears and if he does not disappear the bank forecloses as you said and gets all the land then the down payments and other payments of the poor wage earner who just really wanted to have lot of his own disappear. The range of problems, I just realize recently in the real estate .....

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CH. MAGNDA: And gets all the land, then the down payments and other payment of the poor wage earner who really just wanted to have a small lot of his own disappear. The range of the problems I just realized recently in the real estate business is quite wide. That is why we asked you here today, maybe you can suggest to us, we are open-minded, that is why we are calling a hearing. That would be a desirable compromise between the requirements of the buyer and the requirements of the developer-owner. That is why one of the compromises that was put in this bill was, of course, a percentage scale which is also subject to explanation and amendment; the other one is the question of possession. I see the point where a buyer has built a house and has stayed in that property, then he is really supposed to pay rental, as against somebody who has not really taken possession then, maybe, it's a less judicious case or less clear case of payment of rental, but I don't have to read the standard provision, this is the Ortigas contract. And not only is it with regards to non-payment, there is a second paragraph which says; "The breach by the purchaser of any of the conditions contained herein shall have the same effect as non-payment of the installment price".

So, in effect, if you read this, and usually nobody reads this, I never read this until it was brought to my attention, theoretically and as a matter of fact, the buyer is at the mercy of the subdivision owner, because for any small violation of this, he can cancel and I think you know this has happened in some cases.

MR. ASCONI: Mr. Senator, I would like to point out that most of these contracts of the old subdividers are rather strict compared to the new ones. Not all contracts now are based on this. On the contrary, I think many of our contracts compared to Ayala, Ortigas and the other large Magdalena Estate and Balintawak Estate, these extensive land holders that form these areas in Makati, in Mandaluyong, in Quezon City up to Balintawak Estate, had based most of their contract on this particular contract which was prepared by the law office of Ortigas Compañia, Ramirez, Ortigas and Company, but you will notice the new contract, mostly new subdividers, who do not have such prime land like this, has to create other incentives for people to buy rather than restrictions but more or less limits the use, the purchase and the rights of buyers.

CHAIRMAN: Well, we have the representative of Ayala here, maybe we can be enlightened.

MR. ASCONI: Yes, I notice the Senator is fully alerted, I purposely took the liberty to point that out because I am also a lot buyer in Ayala and I did not read my contract and I just signed it in the presence of Mr. Ortigas.

MR. BARGELON: Well, first of all, we wish to thank this Committee for inviting us to air our opinion. I wish to say that at the very start that we received this notice quite suddenly and we didn't have time to prepare on such an important subject. Now, although Ayala is about phasing-out, we have very little land left and we are not anymore worried about installment contract, we would like to help as much as possible in this endeavor by this Committee and we would like to present a formal position paper on this bill.

Before, however, closing, I would like to state that that contract which you saw was copied verbatim from the Ayala contract. I have to admit that.

CH. MACEDA: I am one of the unfortunate one who had never been affluent enough to afford a lot in the Ayala subdivision, so I never saw it.

MR. BARCELON: But then that was conceived at the time when we are pioneering in this area. I mean to say, when we have to clear Makati which was cogonal and a jungle place and we have to make it a point to make developments a part of sale, not only getting the money, but also developing the place. So, that our sales, the consideration of our sales is not only the money which is paid by the purchasers but also the compliance with very strict restrictions that we imposed about development because we would like to have an orderly development on that place. And that is the main secret of the success of Ayala on this field or modesty aside, I think Ayala has succeeded far beyond the expectation of anybody even in the company because of that, and when we said something about the restrictions, we meant it, we go to court for six inches<sup>of</sup>/violation.

That is why at that time, I think it was very necessary for the contract to be formulated that way, and I believe that even before then, the Supreme Court has already decided cases on identical provisions and has upheld the validity of these provisions.

CHAIRMAN: That is why we have to pass a new law to... if the Supreme Court did not uphold of the validity of these provisions, then we would have not need for the law.

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MR. BARCELON: And now, I think that the supply is getting smaller than the demand, I think there is really a big necessity for this kind of bill. That is why my company would like to present formal position paper on this one.

CHAIRMAN: Well, in our experience, Atty. Barcelon, can you tell us, of course, Ayala as you said is an entirely different class, what is the percentage of forfeitures or returns in the Ayala?

MR. BARCELON: It is quite negligible because, well, it was during my time, that was way back in 1954, the percentage of forfeiture is very negligible because then, there was already such a demand that any lot returned or any contract cancelled is immediately gobbled up by five or six purchasers waiting in line. So, we returned the money on tote; we returned all the papers except the interest.

CHAIRMAN: In your case, you returned the money on tote, except the interest?

MR. BARCELON: Yes, except the interest.

CHAIRMAN: How about the commission of the agent?

MR. BARCELON: That we don't return/ also because the agreement besides that in case of cancellation because it is through the fault of the purchasers that the contract is cancelled most often, we deduct the commission paid to the agent from the refundable amount.

CHAIRMAN: Now, about this question of interest, one thing that bothers me here is, I noticed that the amount paid for interest in the earlier years is bigger than the amount applied to principal. Now, if interest is going to be deducted, I am afraid that hardly any amount will

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be refunded also if it is, let's say, within the first three or four years of the contract, less the agent's commission and everything.

Now, with regards to your question about deductions and income tax, that is easy to solve, we can just provide that if you refund, then we can consider it as a deduction against your current income tax payment, something like that could be worked out. Now, of course, the most serious questions, we will have to study this, is a question of how will this affect the financing aspect of subdivision developers especially. Well, my reaction to that is, the problem exist, if you feel this is a proper solution, then the question of the financing aspect that is going to be affected has to be solved by some other way, or some other proposal, but not really to the extent of doing away with the necessity of this protection, which has been admitted here is getting to be more and more necessary.

Will you submit your position paper, please.

MR. BARCELON: Alright.

CHAIRMAN: We can ask Mr. Soliven which is one of the, I notice, newer realtors in the scene who has made quite a name for himself, you advertised a lot for one thing.

MR. SOLIVEN: Well, thank you, Senator, for that nice commercial. I think that will make the Ilocos great again.

Now, first of all, I would like to thank you for your invitation here. I think, this is the first time I'm called for a Senate hearing. And, of course, as the others have said, we, I think, agree in principle on this bill for its good motives and intention. But I think what seems

to be the common census is that there are certain provisions here that I quite see will cause repercussions and problems especially to the subdivider, like the two months grace period and so forth. Of course, as I think Mr. Serrano mentioned too, buyers, for example, who have for eight years paid already, they would have about 16 months installmen, and if. . .

CHAIRMAN: Well, I'm not very much about that particular case ~~because~~ because somebody who had paid 8 years out of 10 years, the chances of his really defaulting intentionally is very negligible.

MR. SOLIVEN: But the impact on the subdivider is this, if they are aware that their lot will not <sup>be</sup> forfeited for quite a period, they should have paid quite a number of years, and if a great number of buyers will follow this protection, then it would be a very substantial slash on a developer's budget and programming. Because you know how it is among us Filipinos; "habang may pagkakataon na" to have a leeway or we have so-called grace period, we will always avail the most of it. In other words, Filipines tend to be last minute rushers and all of that and I think if you have something of this sort of a provision of grace period, it would quite disastrous on subdivider.

CHAIRMAN: I will let you finish, would you like me to ask questions on that particular point?

MR. SOLIVEN: Yes, sure, certainly.

CHAIRMAN: I am not quite ready to agree with that. I think as a rule, as a Filipino head of a family would really would like to, if he can comply with the obligations, installment, especially since in the nature of things he

probably cannot get, especially with regards to the better subdivision, a housing loan to build the lot until he has really the title to the property or a certain amount of payment.

MR. SOLIVEN: Well, I know what you mean, the thing is, from my experience, and I have notice it especially, buyers who are businessmen or small businessmen for that matter or even employees for that matter, they tend to rather use the so called money or capital for the time being for their fast rolling business and don't rather pay the so called even 1% a month interest rate. I have noticed this, in cases of our many delinquent buyers, they usually at times even said, they lent the money to so and so at three per cent rate per month interest, but "magyari itong maghiram, hindi naman binayaran sila ulit sa angkaproblema", you know I mean.

You know these are the practical problems that arise from this kind of leeway that would, if ever it would be given, and Filipinos as they are, they will always try to make the most of what opportunities they are given.

CHAIRMAN: Are you questioning the length of grace period? Because I think we can agree that there has to be a grace period. Because as a matter of fact, in practice, there is. . . .

MR. SOLIVEN: Definitely, we are for a grace period, but we would say, why don't we get something uniform or fixed like 90 days irrespective of the length of period, maybe 90 days, and then with the final 30 days grace period upon sending a registered notice. Of course, our

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company usually sends three notices: first reminder, the second reminder and notice, and a third one, that is after the buyer has been delinquent for 60 days. And if he still does not pay after the final notice, third notice which is a registered notice, we still give him another 30 days to come across, and if he still fails, then our legal department sends a letter of forfeiture.

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MR. SOLIVEN: But again in the practice, we really don't forfeit necessarily. Because as usual again, the Filipino comes running again and makes pakiusap and considerasyon and all that, so we give in also. But that is the way how this psychological thing works.

CHAIRMAN: Well, it's because you have a soft heart, Mr. Soliven, but it happens that there are subdivision owners and realtors who don't have soft heart.

MR. SOLIVEN: I am for this bill precisely but I think we have to modify provisions that would in turn not also jeopardize even the good ones, I would say.

CHAIRMAN: Mr. Serrano, you wanted to amplify on that point?

MR. SERRANO: You see, basically, we have two kinds of buyers in subdivisions, you have the home builders, those who purchase lots on which to build houses, and then you have the investors, who simply would like to invest in it, resale it, etc. Now, we have a major problem with respect to <sup>the</sup> second category. I think that is what Mr. Soliven is trying to suggest. While it is true, we agree with you, Mr. Senator, that it is hardly possible for anyone who has gone to 8 months to let go. We do not question that. It is his ability to maneuver that, manipulate the grace period of 16 months within reach of that grace, the account may not be cancelled. That was what I was trying to suggest a while ago. He will have a right to own it, he will cherish another 16 months upon which the value may go up, perhaps, by

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another 10 or P20.00 more and avail of that because the accounting here is uncancellable.

CHAIRMAN: But you do charge interest?

MR. SERRANO: Well, we are restricted under this agreement -- under this act that is why there is no interest, while the normal have interest.

CHAIRMAN: On the automatic loan extension policy I think even in insurance there is interest. There has to be interest.

MR. SERRANO: Yes, you speak here, Mr. Senator, of interest at the rate of 6 per cent, that is, if you avail of second option. But there is a first option that you may avail of with a grace period of three months for one year. So, since this is a matter alternative necessa\_rily you will choose on the first option.

Now, the position, perhaps, might be better stated this way. If, and we agree that every contract must have a grace period. As a matter of fact, we already grant that under the contract, and as a matter of practice as enumerated by my good friend Sonie here, we may give them more than 7, 8 months, up to one year. Now, we agree for a grace period, a grace period of three months, to our minds, is more than ample. Because what is necessary only is that period of time within which he may have the ability to resell. But on account that has gone a number of years, certainly commands in value far bigger than what it was three years back. So the commanding value of it for selling purposes is already so much and within three

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you have earned that ability to resell.

CHAIRMAN: Except that as Senator Benitez was suggesting, if they know that you are in default, then your reselling price will be less. Alam nilang guipit ka na. You know how it is and then there is a way of how these things get around and you really don't get the market price for it.

MR. SERRANO: Well, <sup>as</sup> I said a while ago, if the situation should arise, the lot buyer himself should know before hand whether he can still afford to pay or not. So that even before the occasion for the delinquency arises, he knows already that his position may not allow him to continue. Now, since he has the three months grace period which as I said, as a matter of practice he should not fire steps behind that. He has all the time, if he has interest in his lot to resell. And I take my position that I cannot display any gradual interest. . . . Again as a matter of practice, we even encourage them to come to us to give us the authority to resell. You see, this is a peculiar business, this subdivision, Mr. Chairman. As I was saying a while ago, it is upon as many, the more there are buyers we are happy and contented with that. It is better off for us. Because these are our promoters, these are the ones who speaks good of us. One company that is so extremely strict in its operation can't expect to survive too long anyway. But we who feel are in this legitimate pursuit to this kind of a business something that we don't expect to linger only for one year or so, but we hope to bring up to our grandchildren, we certainly would like to come up with that image out there in the public that is not only acceptable but agreeable. And

that is affiliated with the Philippine Association of  
 broker that belongs to an existing board, local board,  
 a real estate broker and a realtor is this. A real estate  
 ones that are... The difference, Mr. Chairman, between  
 against maybe real estate brokers who are more than the  
 lers of more lots and for us realtors its good protection  
 Realtors here for us I think this law will help the sel-  
 maybe having his own department of helping there buyers.  
 They have ways like Mr. Bern account of St. Louis Realty  
 most notably these realtors here this law does not affect.  
 to sell it later it be cannot pay, but as far as I said  
 most are. There are very few that buy lots and intend  
 ing to sell but trying his best to keep his lot, which  
 his changes to sell. But suppose the buyer is not intend-  
 ing to sell but trying his best to keep his lot, which  
 Of course, the disassociation was dealing of  
 are the most affected here as Mr. Serrano has been dis-  
 do not know about the subdivision owners, of course, they  
 most notably realtors Bern account, Valencia, Solivan, I  
 Chairman, that as far as the realtors here are concerned,  
 DEL ZARAGA: I was just trying to point out, Mr.  
 CHAIRMAN: Yes, Mr. Zaraga.  
 DEL. ZARAGA: Mr. Chairman.  
 CHAIRMAN: Maybe we should hear from the buyers.  
 that we depend.  
 please them. It is on that good will that we give them  
 neighbors and so on. That is why it is essential that we  
 encourages friends, compare, etc. to buy, they become  
 After another period of time he buys again and again. He  
 is not only consent in buying one or two sometimes.  
 make profit from it. Because surprisingly a lot buyer  
 we go all out to try to please them, make them money,

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Real Estate Board can carry the term realtors. Not everyone that sells property or real estate can call himself a realtor. He has got to be a real estate broker licensed as a broker that belongs to a local board that is affiliated with the Philippine Association of Real Estate Board. The term realtor is coined patented with direct contract with the National Association of Real Estate Boards of America. And that is the definition in the Encyclopaedia of recent vintage. Therefore, this law will protect realtors now and will weed out the smaller and unscrupulous other brokers that sells properties and disappears after that, and leaves the buyers to the mercy of the seller.

CHAINMAN: May we hear Councilor Precioso Perlas of Quezon City who has volunteered to testify in behalf of the buyers of subdivisions in Quezon City in support of the bill.

COUN. PERLAS: Thank you very much, Mr. Senator, for giving me the chance to appear before you. I received your invitation this morning and I am sorry I came late.

CHAINMAN: That is all right.

COUN. PERLAS: Well, I certainly join the laudable purpose of this bill. Although I would like to suggest some more considering that, we, in the Council in Quezon City now are very deeply concerned in protecting lot buyers, considering that Quezon City is still two-third mass land. We are experiencing now the proliferation of so many subdivisions in Quezon City and some of these places are now being subdivided and there are times that we cannot cover certain gaps wherein we can protect the land buyers not through city ordinance but through national laws. And

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certainly we welcome this act which you are proposing now, Mr. Senator, although we would like to suggest some more if we may. Like for instance, as I have earlier discussed privately with the Senator, the need of a national office to supervise this subdivision selling, like what they have in most of the states, in the United States. I have had received several complaints from residence of Quezon City wherein certain subdivisions, of course, not subdivisions operated by the gentlemen here, wherein the subdivisions cannot even provide the basic utilities like, light and water, streets and gutters, and practically these supposed subdivisions are not even habitable, Mr. Senator. And although we try our best to impose and try to some of our ordinances, amend we still feel that we will only cover the areas covered by Quezon City. We feel that there is need for a national law wherein maybe we could put up a commission, like what I have mentioned to Mr. Soliven, wherein these activities of subdivisions owners can be supervised. I had personally experiences here because I represented one time certain subdivision owners in Miami, Florida and they have what they call a Land Board, and it is the Land Board that supervises the sale of all subdivisions all over the State. Also they have a program wherein as we have noted some of the subdivisions here, I do not know if it is true in some of the subdivision operators here, wherein the whole subdivision, Mr. Senator, is still mortgage and there are times it comes to the point where the buyer is already ready to pay in case, but the subdivision owner cannot give the property because

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the mortgagee who is holding the mortgage equity on the property would not like to release. We need, I feel, Mr. Senator, some protection for the lot buyers on this. Now, it seems now that the background of why most of the subdivisions are mortgaged, Mr. Senator, is because, of course, they need capital to develop the subdivision. So, maybe, I would like to suggest the program they had in Miami when I was there. They allowed the sale of the row lands, the government allows the sale of row land on what they call pre development sale, wherein they allow the sale of part of the subdivision up to a certain ceiling. And once they have reached that ceiling they are ordered by the government to stop selling, and develop the property. And in between the predevelopment sale, the subdivision owners are required to put up a bond to cover, at least, to guarantee that they will develop the subdivision, so that this will be an incentive for subdivision owners to develop their property without mortgaging their property.

MR. SERRANO: May I say something, Mr. Senator.

CHAIRMAN: Yes, Mr. Serrano.

MR. SERRANO: I am all for what Councilor Perlas stated. I think there really is a need, as I have been harping for so long a time when I was president of SOAB for a national law. As a matter of fact, I would like for it to include even the operation of all subdivision in general, because this is a happy occasion for us to air publicly that we have been going through serious difficulties dealing with different municipalities and cities. There has never been any uniform arrangement as

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far as the approach to subdivisions is concerned. Now, at this time, Mr. Senator, all source of requirements came about, ordinance sometimes go beyond bounds, they ask for a minimum of 20 meters in width, etc. Out of Tagaytay for example, they require 7-1/2 space which to my mind is confiscatory. But many times we think that we developers of estates, that these ordinances are now being used largely as a weapon or an instrument.

Mr. Perlas spoke of certain subdivisions without facilities, etc., etc, while they operate in Quezon City, Mr. Senator. And I am surprised at the posture of Quezon City now this has no reflection on the councilor, he has just seated recently. I am surprised why once only about three weeks ago, I received a note from the City Engineer requiring that we donate our water system.

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ATTY. SERRANO: You see, we operate a water system there for the good of the residents because that is part of our contract. I don't know why they required us to donate this because, perhaps, and I can make a surmise, I hope this isn't true, they want the entire neighborhood to be serviced also. You see, when we operate a subdivision, Mr. Chairman, we provide the facilities for the residents within the subdivision. But for us now to go far beyond and be required by a government agency, local or national to service than the subdivision limits, I think that is already going out of bounds. We are not here to discharge government functions. We are still in business.

Now, speaking Mr. Chairman on mortgages if I may speak on behalf of the developers I cannot imagine any one developer in this country and Ayala seems to be the biggest followed perhaps by Ortigas, they seem to have the resources amounting to hundreds of million and that they did not have to borrow. As I was saying a while ago that this is one business if compared to any other business requires a great deal of money.

CHAIRMAN MACEDA: The case mentioned is a specific case where the property mortgaged is a specific property and it is an entire property and that a specific buyer who has fully paid cannot get the title to his portion of the property because the whole property <sup>was</sup> mortgaged.

ATTY. SERRANO: I am approaching that. I am approaching it this way. To encumber a subdivision is a necessity for us. But has it not occurred to the Councilor and I hope to all others that the way banks operates you know lots that has a market value of \$50,00, they would

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appraise it at \$6.00 and give you a loan value of 60% of that and how much is that? Now, even on the part of the developer, it is going to be foolish for us for example to abscond for what we have sold is worth \$60.00 only because we would like to rid and run away from a two page account.

CHAIRMAN MACEDA: No, I think that is not the point being brought out. The point brought out is that there must be some sort of a provision or a law or a contractual provision where if somebody has paid fully his lot out of the entire subdivision then he should be allowed to get the title and that lot released by the bank. Usually, the subdivision owner agrees but the bank does not because you have a delinquent account on the entire property.

ATTY. SERIANO: You see, lots are sold on installment and we do that because we are trying to make it more convenient for lot buyers. So, we go even as far as long as 20 years to pay. Naturally, all of these accounts are scheduled on the basis of maturity. As a matter of practice we ask our lot buyers that those who would like to liquidate their accounts ahead of the maturity to advise us in writing that they would like to liquidate their accounts. When we do receive these notices, we advise the bank to please have the following lots ready for release. Inevitably, what we received from them is about maybe six or seven times more than we may have to pay any bank. Even under that scheme alone, it would seem to me unthinkable that the developer would find itself in a position of not being able to pay. Now, if this has happened and this has happened, Mr. Chairman, this has happened to the so-called adventurers, those who should not be in that business but got in there

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people who thought that this kind of business is just like that, a paper thing that they can easily translate to reality and then come up with so much. That is why I am saying that this is something that to my mind might become a trouble to the banking system itself. We are prepared to be placed under regulations, why not? To be placed under a national agency, this is what we had been harping on for so long because, perhaps, it is true that we might also get the same measure of protection, the same measure that these lot buyers are asking for. So, we scheduled it, there is no problem there but if they can they just say like that and say, Mr. So and So, I want to pay in cash and I want the title now, that, also is not a proper procedure because there is also some amounts of red tapes involved. When we borrow with a bank the bank rediscounts the same accounts with the Central Bank and it is not that easy to get the title because when we announce to the bank that we want to have the titled released, the said bank would advice the Central Bank that they are pulling out the same title. So, we allow sometimes from 30 to 60 days as a matter of practice. On our part, if we can, if we can do it right then and there we will do it. But you know, let me give you one example, Mr. Chairman, the GSIS before it releases one single lot the Board has to sit. I am surprise at that policy. But sometimes....

CHAIRMAN MACEDA: You are referring to a specific case. I happened to be on the GSIS Board and this is the Silvestre-antonio Village which is a mess.

ATTY. SERRANO: Maybe it takes then months before they can get a quorum, Mr. Chairman and during election time, they started campaigning from February to December there was no quorum so there can never be a release.

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CHAIRMAN MACEDA: Because, at the beginning as a matter of fact, they don't want to release any because if you release any of the lots and it would already ~~be~~ have a very little coercive force on Zulueta to pay his accounts. Actually, there are special circumstances on these things.

COUNCILOR PERLAS: Mr. Chairman, I know that what we are discussing here is a little bit out of the proposals of the act but it is just that I am here because I want to express the sentiments of the people who are complaining to the council lately. For instance, as I said, there was an instance that the forms to sell is the so-called non-acceleration clause. They prohibit the sale in cash and I feel that the lot buyer should also be protected on that. In other words, if they are supposed to pay in instalment, they will have to carry the clause all the way.

CHAIRMAN MACEDA: I have seen such a clause in one or two contracts.

COUNCILOR PERLAS: There again, I think the lot buyers should be protected and I think the purpose of the non-acceleration is simply because of the mortgage. They have to jibe this with the mortgage and earn interest.

Mr. SACCHI: I do not know of any developer who has a penalty clause, and this is a penalty clause for accelerated payments. Before, firms like Ayala, correct me if I am wrong used to have this clause in their contracts but today, when the money situation is so tight.....

CHAIRMAN MACEDA: It says here, it is not really an acceleration clause but it says here payment in advance, that the terms of this agreement is established for the exclusive benefit of the owner and the latter shall be under

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no obligation to receive any instalment or any other payment before the same is due, it being the expressed intent and agreement of the parties,.....This is a non-acceleration clause.

MR. ASCONI: A penalty clause for the acceleration of payment. Only, the wording is different. Here, you cannot accelerate the payment. They have the right to refuse. In the United States they will penalize you for accelerating the payment by charging you interest although you are paying immediately. So, basically, this is a penalty clause for accelerated paying.

CHAIRMAN MACEDA: There is no penalty here.

MR. ASCONI: Here, there is none.

CHAIRMAN MACEDA: Yes, but they can refuse.

MR. ASCONI: So, basically, this is both. The owner refused so, you are being penalized.

CHAIRMAN MACEDA: So, if he refuses he will probably say -- I will allow you to accelerate for a certain consideration.

MR. ASCONI: Yes, that is the penalty that you have to pay, that consideration. But, as far as I know, Atty. Barcelon here will second this opinion that at present there is no realtor that maintains this clause, because everybody would like to buy or accelerate.

CHAIRMAN MACEDA: Suppose there is an existing contract.

MR. ASCONI: I am speaking of realtor.

CHAIRMAN MACEDA: Could we just listen to Mr. Santico now? Mr. Santico is the present present of one of the biggest employee organizations in the government and they are also looking into this problem.

MR. SANTICO: Thank you very much, Mr. Senator. I am

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really glad and I would like to express to you the appreciation of the government employees especially the Confederation of Government Employees association of which I am the president for presenting a bill such as this and I am also glad, Mr. Chairman, that most of the speakers tonight practically endorsed this bill. And from our side of the fence, naturally, we would endorse this wholeheartedly because this will mean protection not only of the general public but particularly the government employees especially this time when the GSIS is embarking on massive housing projects. There are certain aspects, however, of the bill which I would like to comment on most particularly and I would refer to the wordings of Section 2. While this bill intends to protect in general buyers on instalment basis, you will note, Mr. Chairman, line 3 says that in contract to sell real estate property on instalment payment.....this might be interpreted to mean only contract to sell strictly. But you see, Mr. Chairman, there are many forms of instalment contracts like conditional sale, absolute sale with mortgage and so forth. And in order to forestall the ambiguity of this line 3, I would like to suggest that the wordings be as follows. "In any transaction involving the sale of real estate property on instalment (this will cover all kinds of transactions like conditional sale, contract to sell, absolute sale) This is going to be inclusive, Mr. Chairman, if we are going to protect the buyers fully, this should not serve as a loophole to circumvent the provisions of this bill if this should be enacted into law. I have heard also so much about interests. Firstly, interest is paid by the buyer and generally, the interest is excessive and <sup>if</sup> it is possible, Mr. Senator, my suggestion is that the interest

be also regulated within reasonable bounds especially for low-cost housing projects, even in housing <sup>units</sup> costing \$15,000 the interest imposed is 12%. If it is at all possible on the basis of the economics of the transaction the interest should not be limited to 8% or 10% and speaking of interest on the side of subdivision owners who make the representation that interest would be deducted if there is going to be a refund as proposed in your bill, I was thinking that that is a reasonable suggestion to deduct interest but we should not forget the fact that for the time that they are holding the installment of the buyers, they are also earning interests. So that if you are going to <sup>deduct</sup> fully the interest from the refund, you are not crediting the buyer with the interest that they have already earned for the installment that they had paid to the buyer. So, I would suggest that all that I request to be taken into account is the Congress would accede to the representation that interest should not be included in the refundable amount. On ~~possession~~ possession, Mr. Chairman, there should not be considered possession for as long as the subdivision is fully developed even if, perhaps, in the contract they say that there is going to be a constructive possession by the turn-over of a Deed of Absolute Sale to the buyer there should not be considered possession for as long as the physical possession is not possible.

CHAIRMAN MACEDA: Actually, our intention was really physical possession.

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CHAIRMAN: Actually, our intention was really physical possession, if they have used the property physically. Although, that raises immediately the question, if they have used the property physically, especially, if they have built a house, then there is the question of what happens to the house.

MR. SANTIAGO: Well, Mr. Senator, you know that some buyers are in a hurry about building houses simply because they are forced to, they are paying, for instance, excessive rentals. When a buyer acquires a piece of land especially those of us who do not have any land at all and they are eager to construct houses, of course, no matter what the condition of the subdivision lot is, they are forced to because they have entered into already a contract of purchase and sale with the subdivision owners. What I am trying to say is that, these buyers should also be protected from being considered having taken full possession of the property unless the subdivision is fully developed. I don't know how we are going to make a compromise on that, but I would like that to be taken into account also, Mr. Senator, by your goodself.

If I may continue because there is another point that I would like to touch on. This question of down payment, down payment is the only term used in the bill. Mr. Senator, you see that this can be circumvented, they may not call it down payment, they may call it deposit, they may call it service fee, but just the same, this maybe excessive. And I come also to the term "liquidated damages" used on Section 5. This can be exploited to include all the



amounts paid at liquidated damages. If they provide in the contract that any installment paid shall be considered liquidated damages, in case of failure to pay any installment, there you are. It is already at once allowed by the same bill that seeks to prevent forfeiture of installment-payment already made. So, I would like this reconciled, Mr. Senator, I am suggesting that this word "liquidated damages", be more specifically defined to preclude exploitation of the phrase, to convert down payment or installment-payment as liquidated damages.

CHAIRMAN: You see, this is one thing that has not been mentioned. This scale works both way. Under Section 5, if there is physical possession, the scale is supposed to be used as the scale for the rental value of the property. So, on one hand, if you reduce it, let's say, by the interest or whatever it is to refund to the owner, the same rule will have to apply if Section 5 is going to be applied now in your favor from the viewpoint of applying the rental. So, this was supposed to be complimentary. So, I would like you to consider that in the memo that you will prepare.

Yes, go ahead.

MR. SANTIAGO: Well, the matter of taxes has been touched also, maybe, the fact that the subdivision owner may have paid taxes should not detract from the idea of protecting the buyer from a refund. Maybe it can be easily corrected, of course, Mr. Senator, that can be

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accepted once paid by the subdivision owners as already suggested before. And with this, I think I have covered for now whatever there is to cover on this bill because I have just read this afternoon when I came over.

CHAIRMAN: Yes, we shall hear the president again to summarize his comments without prejudice to everybody, please submit to us an extended memorandum. After all, we shall not take this up within the next few weeks. You would have about two weeks to please submit your memorandum and I will hold-off any Committee action on the bill until I have gotten your memorandum.

I know the bill is imperfect and that is precisely why we have asked your comments, Mr. Valencia.

MR. VALENCIA: The bill seems to over-look a very important protection of the buyers and this is concerning the improvements. We have received several complaints, our board I mean, that buyers do not want to pay installment because the improvements on the subdivision has not been made and naturally they have the reason for that.

There seems to be no law now existing to protect the buyers from the construction of improvements with the exemptions of surety bond which is required by Quezon City. Now in other provinces, they do not require bonds, only in Quezon City that requires surety bond ~~to secure~~ ~~surety bond~~ to secure or to guarantee the construction of improvements.

In our contract of sale now, we include a guarantee to complete the improvements in a number of years, say, two or three years. With this guarantee, I believe the buyers will have more protection and that they will certainly get the incentive for them to pay the installment.

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CHAIRMAN: That would basically light, water, curbs and gutters.

MR. VALENCIA: Yes, all improvements required, that is understandable. Now, there are two subdivisions in Quezon City which have been sold 10 years ago, and the owners have long since died. This subdivision has no roads, no monument, no nothing. I know of the complaints that has been filed with the City Engineer of Quezon City regarding the construction of the improvement of the subdivision. The city government is practically helpless; they do not know who is going to be responsible or who is going to construct the improvements because the heirs refused to construct it. It is a matter of public record in the City Engineer's Office of Quezon City.

Now, since your concern is the protection of the buyers which we, realtors, also have the same desire to help, because we, realtors, usually see it both ways; the buyer and the seller. Because if you only see one side, we will never prosper.

CHAIRMAN: Well, I suggest that you submit to us a proposed provision to cover this particular situation.

MR. VALENCIA: Yes, because the bill should at least include also the guarantee of the construction of improvements.

CHAIRMAN: Yes, Mr. Asconi.

MR. ASCONI: Mr. Chairman, I think in the final analyses we are always serving our right to present position paper, everybody here has the same opinion. But going to the discussions here this evening from the Councilor of Quezon City, the gentlemen here with me, as well as Atty. Barcelona and the government of the

Philippines, it seems that many of these points here, if we would just add a clause on this bill wherein the seller would allow the buyer to sell his property for a period of 90 days prior to foreclosure, for a period of 90 days after the grace period at the market price or the price the buyer sets. As well as help himself to sell the property, many of these succeeding protective covenants of the bill would become academic, so to speak. Because any buyer who would have the right, after he has failed to pay or would be unable to pay, would have the right to re-sell his lot. I am only speaking for myself now; I cannot speak for my colleagues here. This is an off-hand practice that we ourselves practice, but we always allow the buyers to re-sell the lot when they fail or they are unable to pay and they are the ones who set the price.

Another point I would like to bring out is, contrary to the impression we may have created to Sen. Benitez here, where the vendor, more or less, take advantage of the vendee once we are in default or they have defaulted, this is not always the case, because many times, many of us who sell our land give this option to the buyer to re-sell at current market value. If you incorporate here a clause in this law that would first require the vendor to allow the vendee the right to re-sell at fair market value for a period of 90 days, which is the grace period really granted in the contract, another 90 days. So in short, after the buyer would have been unable to pay his lot, he still have the right to authorize the corporation or himself or other brokers to try to sell his property at fair market value, then these succeeding

problems will never arise. Because I am sure, due to the unearned increment in the increasing value of the land, the price would be at least twice what you have paid and there will be no problem selling this land; there will be no problem in refunds, no problem on how much; and no problem on how long and it is basically.....

CHAIRMAN: If he can find a buyer?

MR. ASCONI: Well, it is not difficult to sell because after two or three years if the property is developed, at least, the price would have doubled, Mr. Senator.

CHAIRMAN: I agree with you and that is one of the premises of this bill that even if you refund, if you decide to make use of your right to refund to the buyer, since the contract price was based on a lower contract price, when you refund, you can still sell the property at the higher market price prevailing at that time. So, the owner really does not lose very much, except that under present practices, if he really wants to, he gains very much, this is the situation.

MR. ASCONI: But many of us do refund, actually do refund, if not the full value, certainly the net value and consider the interest as well.

CHAIRMAN: Many of you do refund.

MR. ASCONI: Yes, many of us do refund.

CHAIRMAN: The implication is that some do not refund.

MR. ASCONI: Yes, certainly, but there are some.

CHAIRMAN: That is precisely what we want.

MR. ASCONI: Precisely, this is for the "some" but we could eliminate that "some" by, before even foreclosing the property, they should be allowed by, before even foreclosing, to re-sell it for 90 days, to give them the opportunity to get the better price if possible than

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what the price will just give them because the law will just protect them up to 50%, the minimum of 50 and a maximum of 70 on 7 years.

CHAIRMAN: That is also partly already provided for by the automatic loan extension period or the grace period. Precisely, during that period, logically, if they cannot pay and they don't want to hold to it, they will look for buyers to take over.

MR. ASCONI: Sometimes, the landowners, the vendors do not allow them to do this. So, if this is incorporated it is automatic, that it is mandatory under the law.

CHAIRMAN: I see your point. So, it is also possible that we can consider that in addition to this provision.

MR. ASCONI: Yes, certainly, I think it should be that way.

CHAIRMAN: That <sup>he</sup> is allowed to re-sell and that the duty of the buyer to agree to the ~~re~~ resale becomes ministerial; he has no reason to refuse. Under present practice, the land owners does not necessarily agree to a re-sale, specially if he wants to get the property back.

MR. ASCONI: So, the buyer is always at the mercy of the seller.

CHAIRMAN: Yes, that is a good point.

MR. SERRANO: Well, one final... I would like only to make it clear, if I'm given the right impression, I'm all for the protection, I'm in favor of the bill. I'm merely against too long a period of grace. Perhaps, we can reduce it to a reasonable period and one last note, on the repayment of the so-called cash surrender value,

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perhaps, we can also arrange that this be staggered because you have to require full payment at one time, and if there are too many of them, that might be shuffle to the position of the developer.

CHAIRMAN: Well, the shoe will then be on the other side of the foot. Your repayment, it will then be the buyer collecting from you. Under certain practice, you probably are not really compelled to immediately pay; if you cannot pay, they will have to go to court to compel you to pay. So, it is really the other way around. But we will consider really the staggering, really.

Well, gentlemen, thank you very much for your cooperation and we look forward for your memorandum so we can really have a bill that is fair to all concerned.

HEARING ADJOURNED: 6:29 P.M.