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CHAMBER OF REAL ESTATE & BUILDERS' ASSOCIATIONS, INC.

House Bill No. 8761
Amending Presidential Decree 1529

POSITION PAPER

23 August 2021

EXECUTIVE SUMMARY

House Bill No. 8761 proposes to amend PD 1529 such that:

1. Entry numbers for the Electronic Primary Entry Book of the Registers of Deeds shall be issued to registrants via the LRA website, and shall be used in the “management of priority of rights;”
2. Administrative correction of clerical errors or omissions in the entry of certificates of title shall be effected by the Register of Deeds;
3. Administrative reconstitution of the owner’s duplicate certificate of title lost or destroyed due to force majeure shall be allowed, and registration of transactions shall be allowed pending reconstitution; and
4. Notice of denial of registration may be tendered using email or other modes of communication.

CREBA recommends **dispensing with HB 8761** on the following grounds:

- a) With respect to Item No. 1, the provision is nebulous as to the use of entry numbers issued via the internet for the “management of priority of rights.” There is danger of exploitation, as one with malicious intent could simply obtain an entry number to preempt or prevent another from registering a legitimate interest.
- b) With respect to Item No. 2, without parameters or conditions, administrative correction poses the danger of the process being exploited for the perpetration of fraud.
- c) With respect to Item No. 3, it will exacerbate the proliferation of spurious titles; due to the expeditious nature of administrative reconstitution – i.e. no notice, no hearings, and no judicial scrutiny of evidence – it will be very easy for anyone, using spurious documents, to obtain a brand new certificate of title to a property not his.
- d) With respect to Item No. 4, it is a redundancy; RA 8792 otherwise known as the “Electronic Commerce Act of 2000” is more than sufficient for the desired purpose.



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At the outset, CREBA posits that the land registration laws were formulated with the benefit of extensive study, careful thought and legal and technical expertise, to ensure the integrity of the Torrens System of titling. The provisions of these laws are intricately interwoven to create a protective mantle that safeguards against subversion of property rights.

Indiscriminately pulling the threads off this legal mantle, on the excuse of exigency, poses the grave danger of exacerbating the already rampant title fakery, land grabbing, title laundering and other criminal acts perpetrated with the use of fraudulent or spurious titles.

If the intention is to “modernize” land registration laws to take into account technological advances, then this should not be done haphazardly or without regard to adverse impact. In the interest of transparency and good governance, CREBA strongly recommends constitution of a multi-sectoral task force to:

1. Thoroughly evaluate the capabilities of the computerized systems of the Land Registration Authority (LRA), the security measures in place whether technological or procedural, the extent to which the systems have been seasoned, and their readiness to effectively supplant manual processes and tasks in land registration;
2. Thoroughly study each and every provision of the land registration laws with a view to overhauling the entire Torrens system in order to enable the proper use of technology, without in any way sacrificing the protection afforded by these laws; and
3. Judiciously and properly formulate a comprehensive amendatory law that clearly defines the electronic processes and procedures to be adopted.

HB 8761 - OVERVIEW

House Bill No. 8761 states the objective of “reforming and simplifying processes under certain provisions of PD 1529 to conform to the current state of affairs in land registration, and strengthen the adoption of electronic registration of land titles and deeds by the LRA.”

From what can be gleaned from the language of its provisions, the Bill proposes to achieve these ends by amending PD 1529 such that:

1. Entry numbers for the Electronic Primary Entry Book of the Registers of Deeds shall be issued to registrants via the LRA website, and shall be used in the “management of priority of rights;”

2. Administrative correction of clerical errors or omissions in the entry of certificates of title shall be effected by the Register of Deeds;
3. Administrative reconstitution of the owner's duplicate certificate of title lost or destroyed due to force majeure shall be allowed, and registration of transactions shall be allowed pending reconstitution; and
4. Notice of denial of registration may be tendered using email or other modes of communication.

CREBA is of the view that the Bill is ill conceived. Its language and syntax are unclear and so confusing as to elude comprehension; from what can be gleaned, the changes sought are untenable.

CREBA thus **recommends dispensing with said Bill.**

ISSUANCE OF ENTRY NUMBERS VIA THE INTERNET

The Bill seeks to amend Section 56 of PD 1529 dealing with the Register of Deeds Primary Entry Book, by providing for issuance of entry numbers over the internet.

HB 8761, Sec. 1 to amend Sec. 56 of PD 1529

Firstly, the proposed amendment speaks of an electronic primary entry book. Nothing in PD 1529 mentions an electronic primary entry book or prescribes how it should be used. The Bill seeks to insert it into the law without even defining it or prescribing the parameters for its judicious use.

The electronic primary entry book as used by the registries of deeds shall offer (?) entry numbers facilitated through internet and generated through the Land Registration Authority website. The priorities of rights attached therewith shall be conditioned upon the full payment of entry fees as prescribed by the land registration authority and the completeness of the documents presented as personally determined by the land registry specialist (Registry of Deeds Examiner) within a non-extendible period of five (5) working days from the date the registrant was given an entry number in the web. The entry number as provided for in the land registration website shall be limited to provide entry numbers for the management of priority of rights and does not in any manner give an absolute and unqualified right to the person dealing with the registry of deeds.

In other words, the Bill seeks to change an essential aspect of land registration simply by casual reference.

This does not seem to be a proper exercise of lawmaking power. Should the amendment be adopted, the mere casual reference could be invoked as legal basis to justify all sorts of changes that never had the benefit of congressional scrutiny.

If the intention is to change the entire process of registration to harmonize it with the technology, then to our mind, the proper way would be to specifically define the technological processes, describe the steps, and prescribe the parameters, conditions and requirements in each step. The rule on transparency demands no less.

Secondly, exactly what the amendment is supposed to achieve is unclear. If what is intended is merely something similar to taking a number in a queue and waiting for that number to be called, then there should be no need at all to touch the existing law, as this is entirely within the ambit of administrative discretion.

The problem is that the provision also speaks of “management of priority of rights”; and therein lies the confusion, and the danger. The term is nebulous; it gives rise to the following questions:

- Does it mean that one who is issued an earlier entry number would have the priority in registering his interest over the property, as against another party with a later entry number? If so, then there is danger of exploitation; one with malicious intent could simply obtain an entry number to preempt or prevent another from registering a legitimate interest.
- Is the person obtaining an entry number via the LRA website required to electronically upload the documents to be registered, or will those documents be personally presented during registration? If the latter, then what is the need for issuing an entry number in the first place, when the registrant will have to be at the RD office anyway?
- If documents are to be uploaded by the registrant, will those documents be examined before an entry number is generated?

If not, then the abovementioned danger is compounded. If yes, then why go through all the trouble of issuing an entry number, instead of simply registering the uploaded documents if, after examination, they are found to be in order, registrable and the required fees have been paid?

- Exactly what does “management of priority of rights”, or the entire last paragraph of the aforesaid amendatory provision, mean?

ADMINISTRATIVE AMENDMENT OR ALTERATION OF CERTIFICATE

The Bill proposes to replace the entire Section 108 of PD 1529 and entitles it “Administrative Amendment and alteration of certificates.” As far as can be gleaned, the substitute provision seeks to allow administrative correction in case of clerical errors/omissions and change in civil status.

Yet it discards everything else in the original section that appertains to court jurisdiction.

CREBA’s concerns relative to administrative correction, as well as its recommended

HB 8761, Sec. 2 to amend Sec. 108 of PD 1529

No entry in the certificate of title shall be erased, altered, or amended without a judicial order after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the register of deeds except clerical or typographical errors, innocuous wrongful carry-over of memoranda or omissions thereof due to inadvertence or oversight which do not involve a substantial change in the nature of the property in the entries in the certificate of title, and change in civil status which can be corrected, amended, or changed by the registry of deeds or its deputies through a verified petition by any person having direct and personal interest in the correction of a clerical or typographical error, omissions in the entries in the certificate of title or change in civil status to be filed in the registry of deeds where the property is registered.

alternative, are set forth in the CREBA Position Paper dated 18 August 2021 relative to House Bill No. 8618 on the same subject matter.

ADMINISTRATIVE RECONSTITUTION OF OWNER'S DUPLICATE CERTIFICATE OF TITLE

Section 110 of PD 1529 provides for judicial reconstitution of lost or destroyed original (registry) copies of certificates of title in accordance with RA 26; it abrogated administrative reconstitution under said Act. Subsequently, RA 6732 amended PD 1529 by allowing administrative reconstitution of lost original copies, but only in case of substantial loss due to fire, flood or disasters.

The Bill proposes to amend Section 110 of PD 1529 by incorporating therein RA 6732 by reference. This incorporation is wholly unnecessary, since RA 6732 – a later law – still subsists.

Of graver concern, however, is the proposals to allow administrative reconstitution of an owner's duplicate certificate.

The rationale and intent are elusive; the following questions arise:

- Does this contemplate a situation where both the original registry copy and the owner's duplicate certificate are lost or destroyed due to force majeure?

If so, allowing reconstitution of the owner's duplicate would be superfluous. RA 6732 allows administrative reconstitution of the lost original; and, upon such reconstitution, the registered owner is issued an owner's duplicate of that reconstituted original. This is by virtue of Section 16 of RA 26, which was neither amended nor repealed by either PD 1529 or RA 6732, and thus still subsists.

- Does this contemplate a situation where only the owner's duplicate is lost but the original still exists?

If so, then the applicable provision of existing law is Section 109 of PD 1529, not Section 110. Said Section 109 confers upon the courts the authority to order the replacement – not reconstitution – of a lost or destroyed owner's duplicate, regardless of how the loss occurred. If the real intent is to amend said Section 109, then it should

HB 8761, Sec. 3 to amend Sec. 110 of PD 1529

Except as enumerated under Republic Act No. 6732 entitled "an act allowing administrative reconstitution of original copies of certificates of titles lost or destroyed due to fire, Flood, and other force majeure."

Administrative reconstitution of lost or destroyed owner's duplicate of title is hereby allowed and authorized during natural calamities and other force majeure as may be determined by the administrator. Thereupon, the administrator shall declare that administrative reconstitution shall be allowed within the territorial jurisdiction of the affected registry or registries, as the case may be. Provisional registration of transactions pending reconstitution of the registry copy, as provided in LRA circular No. 3 dated Dec. 6, 1988, is hereby adopted under this act. Entry in the electronic primary entry book and payment of registration fees is considered as a complete act of registration where all requirements are complied with.

have been so stated in the Bill. As it is, adoption of the amendment will result in an anomalous situation of a law having two diametrical provisions, i.e. the amended Section 110, and the unchanged Section 109.

That aside, CREBA interposes strong objection to this proposed measure, not only because of the dangers inherent in administrative reconstitution (or replacement of a certificate of title without a court order), but also because it provides no parameters, conditions or safeguards at all.

Even if safeguards were to be incorporated, the amendment would still be a high-risk proposition. Due to the facility or expeditious nature of administrative reconstitution – i.e. no notice, no hearings, and no judicial scrutiny of evidence – it will be very easy for anyone, using spurious documents, to obtain a brand new certificate of title to a property not his.

It is bad enough that over the decades, reconstituted original certificates have been the primary tool for perpetrating title fraud. It would be exponentially worse if reconstitution of owner's duplicates would be allowed as well, and still worse that the proposed amendment would allow registration of transactions pending reconstitution.

CREBA's concerns relative to administrative reconstitution, as well as its recommended alternative, are set forth in the aforementioned **Position Paper dated 18 August 2021**.

USE OF EMAIL & OTHER ELECTRONIC MODES OF COMMUNICATION

CREBA is of the view that the provisions of RA 8792 otherwise known as the "Electronic Commerce Act of 2000" are more than sufficient to allow the use of electronic means for purposes of official communication.

Thus, the proposed amendment would be a redundancy; it might even be misinterpreted as limiting the use of electronic means only to the situation contemplated by the section proposed to be amended (Section 117 of PD 1529).

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