

June 21, 1995

The Honorable Jose Lifoifoi  
Chairman, Committee on Lands  
and Public Lands  
Constitutional Convention  
Saipan, MP 96950

RE: Proposed Article XII Amendments

Dear Mr. Chairman:

In 1977 I moved to Rota to teach school and have resided in the CNMI ever since then.

Early on, many local people said they would help me "buy" land after it became apparent that this would be my home for a long time. I knew about Article XII restrictions and had read its plain language, so I knew I could not "buy" land, but I could lease it for a number of years. Later on, I was named as a John Doe in an Article XII lawsuit. Since I knew about Article XII and had no intentions of violating it, how could this have happened?

Looking back, I believe it was impossible to predict.

In 1983 I leased some land in Chalan Galaide from Lucy DLG. Nielsen, a person of Northern Marianas descent. She provided the lease agreement form and suggested it include a change of law provision. The form was reviewed and approved by Justice Pedro Atalig, who was a practicing attorney at that time. Lucy arranged for a Title Search, checked with the Registrar of Corporations, and even met with the original owners, all of which was done to insure that no future problems would arise. I felt satisfied and signed the lease.

In 1988, I built a house on that property for my family. Afterwards, much to my great shock and worry, a lawsuit was filed seeking to take away my home and leased property even though I had done nothing to violate Article XII. Litigation is not a good option for me because it would cost me a lot just to defend what I already have and I have not broken any laws.

There has been much analysis on how these problems have arisen. I will not get into that, except to say that the courts almost allowed Article XII to be turned upside down, where people of Northern Marianas descent, for example Marian Aldan-Pierce, would be deprived of owning land and people of non-NMI-descent said to own land, all under the disguise of "Resulting Trust" which had nothing to do with these cases in the first place. That showed the courts are not infallible. Fortunately, the CNMI Supreme Court realized their error and corrected it.


*Rec'd 6/28/95 - en*

The Eighth Commonwealth Legislature addressed Article XII issues extensively. Section 6 of Article XII clearly states that "the Legislature may enact enforcement laws and procedures." It did with great care and overwhelming approval. I believe that had the First or Second Legislatures addressed these issues, the resulting problems to the CNMI would never have occurred. But it does no good to look back. We need to look forward.

I recommend the Con Con propose Article XII clarifications that provide clear guidelines without changing the basic ownership issues. They include key provisions of P.L. 8-32: Severability, Restitution, and Change of Law. Also, I think the phrase "ab initio" should be carefully examined so that people like me, who have leased land that will revert back to people of CNMI descent after the lease expires, are not unfairly harmed.

Thank you for allowing me the opportunity to present these remarks to you.

Sincerely,

  
Robert L. Coldeen  
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