

A CRITICAL REVIEW OF REPUBLIC ACT NO. 8368 OTHERWISE KNOWN AS ANTI-SQUATTING LAW REPEAL ACT OF 1997: ITS IMPLICATIONS TO RIGHT TO PROPERTY AND EQUAL PROTECTION CLAUSE OF THE 1987 CONSTITUTION

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ABSTRACT

This research is specifically intended to determine the salient provisions of RA No. 8368 otherwise known as the Anti-Squatting Law Repeal Act of 1997, which are vague and ambiguous; to find out the salient provisions of RA 8368 which are violative of the right to property and equal protection clause of the 1987 Constitution.

Critical Review was employed in this study because it requires the researcher to analyze an academic text e.g. an article, a report, an essay, a book. The researcher is asked to make judgments, positive or negative, about the text using various criteria. The information and knowledge in the text need to be evaluated, and the criteria that should be used can vary depending on your discipline. In relation to the study of RA 8368, critical review was used by the researcher to evaluate and analyze the pertinent provisions of RA 8368 which may be subject to repeal or amendment.

Squatting is defined as the action of occupying an abandoned or unoccupied area of land or a building, usually residential, that the squatter does not own, rent or otherwise have lawful intention to use. Subsequent to World War II, a multitude of people from the provinces resided in Manila and they built "barong-barong" in the riverside, lakes and unoccupied spaces. Former President Ferdinand Marcos made squatting a crime and demolished the houses of squatters. However, when the former President Ramos was elected as president, he decriminalized squatting as a measure of social justice and to impugn squatters from criminal liability.

On the other hand, the 1987 Constitution provides in Article III, Section 1 that "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." Article 429 of the Civil Code of the Philippines states that "The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property." Article 428 thereof states that "The owner has the right to enjoy and dispose of a thing, without limitations than those established by law. The owner also has the right of action against the holder and possessor of the thing to recover it."

Thus, this study was conducted to review the salient provisions of the aforementioned law and analyze its implications to the right to property and equal protection clause.

With due respect, the law may have been made with lawful intention, but the conduct of this study is to determine whether Section 2 and 3 of RA 8368 otherwise known as Anti-Squatting Law Repeal Act of 1997 may be a violation of the right to property and equal protection clause provided for in the 1987 Constitution.

On the other hand, jurisprudence and opinions of legal experts were gathered from on-line sources.

Furthermore, after analyzing all the data gathered, the researcher concluded that there is a need to amend RA 8368 specifically Sections 2 and 3 of the Anti-Squatting Law Repeal Act of 1997.