

The **STATE** owns all lands and waters of the public domain.

REGALIAN DOCTRINE

Chavez vs. PEA and AMARI, 384 SCRA 152 (2002).

Article 12, 1987 Constitution

Section 2. All lands of the public domain, waters...and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated.

Section 3. **Alienable lands of the public domain shall be limited to agricultural land.** Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.

Civil Code of the Philippines

Art. 420. The following things are property of public dominion:

- (1) **Those intended for public use**, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
- (2) Those which belong to the State, without being for public use, and are **intended for some public service or for the development of the national wealth.**

X X X

Art. 422. Property of public dominion, when no longer intended for public use or for public service, **shall form part of the patrimonial property of the State.**

Presidential Decree 3-A*

11 January 1973

The provisions of any law to the contrary notwithstanding, the **reclamation of areas** under water, whether foreshore or inland, **shall be limited to the National Government** or any **person authorized by it under a proper contract.**

All reclamation made in violation of this provision shall be forfeited to the State without need of judicial action.

Contracts for reclamation still legally existing or whose validity has been accepted by the National Government shall be taken over by the National Government on the basis of *quantum meruit*, for proper prosecution of the project involved by administration.

*Sustained by the Supreme Court in Republic vs. CA, (1998); Chavez v. PEA (2002)

PRA Charter
Presidential Decree 1084
4 February 1977

Sec. 4. Purpose.

(a) *To reclaim land, including foreshore and submerged areas...* or to acquire reclaimed land;

(b) To **develop...** administer...dispose, *lease and sell any and all kinds of lands...* and real property owned by the government;

Sec. 5. Powers and functions:

(i) *To hold lands of the public domain*

(j) *To reclaim lands* and to construct work...

EVOLUTION OF APPROVING AUTHORITY

EXECUTIVE ORDER 525

14 February 1979

To strengthen PD 1084, EO 525 was issued which declares that...

REGULATORY POWER:

PRA shall be primarily responsible for Integrating, Directing, Coordinating all reclamation projects for and on behalf of the National Government.

All reclamation projects shall be approved by the President upon **RECOMMENDATION** of the PRA.

Reclamation projects of any national government agency or entity authorized under its charter shall be undertaken in **CONSULTATION** with the PRA upon **APPROVAL** of the President.

IMPLEMENTING POWER:

Reclamation projects shall be undertaken by the PRA or through a proper contract executed by it with any person or entity;

EXECUTIVE ORDER 654*

26 February 1981

PRA authorized to determine the kind and manner of payment to it...

EXECUTIVE ORDER 543

24 June 2006

Power to Approve Reclamation Projects delegated to the PRA

*ADMINISTRATIVE ORDER 2005-1

Rules and Procedures for Special Registration of Unauthorized/ Illegal Reclamation Projects.

BUT...

EXECUTIVE ORDER NO. 146

13 November 2013

Power to Approve Reclamation Projects **delegated to the NEDA Board**

But PRA retains all other powers...

Hence, NEDA Board approval shall be required for reclamation projects:

- a) Initiated/proposed by PRA or any government entity allowed under existing laws to reclaim;
- b) Initiated by the private sector/entity through PRA, Local Government Units (LGUs) or other government agencies authorized to reclaim; and
- c) For reclamations / reclamation components of respective development projects of GOCCs allowed to reclaim under their respective charters, e.g. PPA, LLDA, BCDA, SBMA, PHIVIDEC, DPWH, and NPC

IN THE MEANTIME....

Republic Act 7160
LOCAL GOVERNMENT CODE
10 October 1991

Section 17. Basic Services and Facilities

Municipality	Province	City
<p>(viii) Infrastructure facilities intended primarily to service the needs of the residents of the municipality and which are FUNDED OUT OF MUNICIPAL FUNDS....</p>	<p>(vii) Infrastructure facilities intended to service the needs of the residence of the province and which are FUNDED OUT OF PROVINCIAL FUNDS including...reclamation projects...</p>	<p>ALL THE SERVICES AND FACILITIES of the MUNICIPALITY and PROVINCE, and in addition thereto, the following:</p>

ONLY a PROVINCE or CITY may conduct a Reclamation Project.

PRESENTLY...

BASIC REQUIREMENTS FOR RECLAMATION:*

1. Approval by the President through the NEDA Board;
2. Favorable recommendation of PRA; and
3. Undertaken by any of the following:
 - a. PRA
 - b. Person or Entity with a Contract with PRA
 - c. National Government Agency or Entity authorized by its charter **SUBJECT TO CONSULTATION** with PRA.

Ours is still a unitary form of government. Being so, any form of autonomy granted to local government will necessarily be limited and confirmed within the extent allowed by the central authority. Besides, the principle of local autonomy under the 1987 Constitution simply means “decentralization.” It does not make local governments sovereign within the state or an *imperium in imperio* (empire within an empire).

(Magtajas v. Pryce Properties and PAGCOR, GR 111097, 20 July 1994).

PRA and other GOCCs

PHILIPPINE RECLAMATION AUTHORITY

E.O. 525

SECTION 1. The Public Estates Authority (PEA) shall be primarily responsible for integrating, directing, and coordinating all reclamation projects for and on behalf of the National Government. All reclamation projects shall be approved by the President upon recommendation of the PEA, and shall be undertaken by the PEA or through a proper contract executed by it with any person or entity; *Provided*, that, reclamation projects of any national government agency or entity authorized under its charter shall be undertaken in consultation with the PEA upon approval of the President.

Laguna Lake Development Authority

R.A. 4850

SECTION 1. *Declaration of Policy.* - It is the policy of this authority to lead, promote, and accelerate the development and balanced growth of the Laguna Lake area and the surrounding provinces, cities and towns hereinafter referred to as the region, within the context of the national plans and policies for social and economic development.

XXX

SECTION 4. *Purposes.* – The Authority shall have the following purposes:

XXX

i) To reclaim or undertake reclamation projects and/or acquire such body of lands from the lake as may be necessary to accomplish the aims and purposes of the Authority.

P.D. 813

SECTION 2. The title and paragraphs (a), (d), (f), and (i) of Section 4 of the same Act is hereby amended to read as follows:

"Sec. 4. Special Powers and Functions. The Authority shall exercise and perform the following powers and functions:

"(i) To reclaim or cause to be reclaimed portions of the Lake or undertake reclamation projects and/or acquire such bodies of land from the lake which may be necessary to accomplish the aims and purposes of the Authority subject to the approval of the NEDA Board: Provided, That the land so reclaimed shall be the property of the Authority and title thereto shall be vested in the Authority: Provided, further, That the resulting lakeshore area shall continue to be owned by the national government."

SECTION 3. Section 4 of the same Act is hereby further amended by adding thereto seven new paragraphs to be known as paragraphs (j), (k), (l), (m), (o), and (p) which shall read as follows:

XXX

"(k) For the purpose of effectively regulating and monitoring activities in Laguna de Bay, the Authority shall have exclusive jurisdiction to issue new permit for the use of the lake waters for any projects or activities in or affecting the said lake including navigation, construction, and operation of fishpens, fish enclosures, fish corrals and the like, and to impose necessary safeguards for lake quality control and management and to collect necessary fees for said activities and projects: Provided, xxx

E.O. 927

SECTION 2. *Water Rights Over Laguna de Bay and Other Bodies of Water within the Lake Region.* To effectively regulate and monitor activities in the Laguna de Bay region, the Authority shall have exclusive jurisdiction to issue permit for the use of all surface water for any projects or activities in or affecting the said region including navigation, construction, and operation of fishpens, fish enclosures, fish corrals and the like.

Philippine Ports Authority

P.D. 857

SECTION 2. Declaration of Policies and Objectives It is hereby declared to be the policy of the State to implement an integrated program for the planning, development, financing, and operation of Ports or Port Districts for the entire country in accordance with the following objectives:

(a) To coordinate, streamline, improve, and optimize the planning, development, financing, construction, maintenance and operation of Ports, port facilities, port physical plants, all 11 equipment used in connection with the operation of a Port.

XXX XXX XXX

SECTION 6. Corporate Powers and Duties

xxx xxx xxx

(b) The corporate powers of the Authority shall be as follows:

xxx xxx xxx

x. To reclaim, excavate, enclose, or raise any part of the lands vested in the Authority.

Bases Conversion Development Authority

RA 7227

SECTION 4. *Purposes of the Conversion Authority.* — The Conversion Authority shall have the following purposes:

(a) To own, hold and/or administer the military reservations of John Hay Air Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station, Mt. Sta. Rita Station (Hermosa, Bataan) and those portions of Metro Manila military camps which may be transferred to it by the President;

(b) To adopt, prepare and implement a comprehensive and detailed development plan embodying a list of projects including but not limited to those provided in the Legislative-Executive Bases Council (LEBC) framework plan for the sound and balanced conversion of the Clark and Subic military reservations and their extensions consistent with ecological and environmental standards, into other productive uses to promote the economic and social development of Central Luzon in particular and the country in general;

(c) To encourage the active participation of the private sector in transforming the Clark and Subic military reservations and their extensions into other productive uses;

(d) To serve as the holding company of subsidiary companies created pursuant to Section 16 of this Act and to invest in Special Economic Zones declared under Sections 12 and 15 of this Act;

(e) To manage and operate through private sector companies developmental projects outside the jurisdiction of subsidiary companies and Special Economic Zones declared by presidential proclamations and established under this Act;

(f) To establish a mechanism in coordination with the appropriate local government units to effect meaningful consultation regarding the plans, programs and projects within the regions where such plans, programs and/or project development are part of the conversion of the Clark and Subic military reservations and their extensions and the surrounding communities as envisioned in this Act; and

(g) To plan, program and undertake the readjustment, relocation, or resettlement of population within the Clark and Subic military reservations and their extensions as may be deemed necessary and beneficial by the Conversion Authority, in coordination with the appropriate government agencies and local government units.

SECTION 5. *Powers of the Conversion Authority.* — To carry out its objectives under this Act, the Conversion Authority is hereby vested with the following powers:

xxx

(g) To reclaim or undertake reclamation projects as it may deem necessary in areas adjacent or contiguous to the Conversion Authority's lands described in Sec. 7 of this Act either by itself or in collaboration with the Public Estates Authority (PEA) established under Presidential Decree No. 1084 as amended; xxx

Subic Bay Metropolitan Authority

R.A. 7227

SECTION 13. *The Subic Bay Metropolitan Authority.* —

(a) **Creation of the Subic Bay Metropolitan Authority.** — A body corporate to be known as the Subic Bay Metropolitan Authority, is hereby created as an operating and implementing arm of the Conversion Authority.

(b) **Powers and Functions of the Subic Bay Metropolitan Authority.** — The Subic Bay Metropolitan Authority, otherwise known as the Subic Authority, shall have the following powers and functions:

- (1) **To operate, administer, manage and develop the ship repair and ship building facility, container port, oil storage and refueling facility and Subic Air Base within the Subic Special Economic and Free-Port Zone as a free market in accordance with the policies set forth in Section 12 of this Act; xxx**

National Power Corporation

R.A. 6395

SECTION 3. *Powers and General Functions of the Corporation.* The powers, functions, rights and activities of the Corporation shall be the following:

XXX

"(g) **To construct, operate and maintain** power plants, auxiliary plants, **dams, reservoirs,** pipes, mains, transmission lines, power stations and substations, and other works for the purpose of developing hydraulic power from any river, creek, lake, spring and waterfall in the Philippines and supplying such power to the inhabitants thereof;

PHILIPPINE VETERANS INVESTMENT DEVELOPMENT COMPANY

P.D. 353

"Section 2. The purposes and powers of the Corporation are:

xxx

(b) To invest in, purchase or otherwise acquire, own, hold, use, operate, sell, assign, transfer, exchange, mortgage, pledge, lease, **develop** and otherwise deal in real estate and **natural resource projects or any interest therein**, and personal property of every kind and description, including shares of stock, bonds, debentures, notes, evidences of indebtedness, and other securities or obligations of any other corporation or corporations, association or associations, domestic or foreign, and for this purpose, it may acquire, lease or hold private lands and public lands of any classification notwithstanding the prohibitions in, or in excess of the areas permitted by the laws; xxx

“Opportunities increase when you help others win. A little win for a partner is a little win for you”