



DEPARTMENT OF JUSTICE

*On the Occasion of the International Realty Investment Summit and Expo*

*7 August 2015  
3:15 p.m.*

SMX Convention Center,  
Metro Manila

**SPEECH**  
**“Jumpstarting the Implementation of the Penal Provisions of Republic Act 9646”**

by

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*Secretary*

Friends, ladies and gentlemen:

I was told that when a visitor from another country comes to the Philippines for the first time, that visitor immediately learns three Filipino words.

First is *Mabuhay*.

Second is *Mainit*.

Third is *Masarap*.

*Mabuhay* is perhaps the best-known Filipino word. It can mean “long live”. It can mean “welcome”. It can mean anything that’s beautiful and wonderful about our country.

So, to all of our guests here today from our ASEAN neighbors, let me begin by saying, “Mabuhay”!

The second word is “Mainit”. It means “hot” or “warm”. It can be used to describe the temperature of Manila. It can be used to describe the taste of some of our spicy food cooked with chili. Or, it can be used to describe the way we welcome our guests.

You are now sampling that “mainit” temperature. Please do take time to sample our “mainit” dishes. And, please do not mind our “mainit” politics here.

There will be general elections in the Philippines next year. Expect everything political to be hot.

The third Filipino word is “masarap”. It means delicious. It means pleasing to the taste buds. It can be used to describe Filipino food or the way we eat. It can also be used to describe the way we love and care for our friends.

I do hope that you experience the “masarap” both in our food and in our friendship.

So, you see – when you come to the Philippines, there is an upside and there is a downside. The upside is the mabuhay and the masarap. The downside is the mainit.

But, I guess, everything in life has an upside and a downside. Most things in life present opportunities ... and also come with some risks.

That is true for life. That is also true for the concept and aspiration for an ASEAN Economic Opportunity.

Among those who will enjoy the upside and who will have to deal with the downside is your sector.

Let’s briefly review the upside for you of the integration of the ASEAN market.

It will be recalled that we dreamed of an ASEAN Economic Community because we wanted a stable and highly competitive economic region .

We said that it will be good to have a free flow of goods, services, capital, and investments.

We believed that such free flow would help bring about economic development that would benefit the greatest number of people and aid in the alleviation of poverty.

There is a strong basis for our faith in that aspiration. When the remaining limitations to mobility are removed or relaxed, foreign investments are expected to come in greater volume. They will then translate to more employment opportunities and financial growth both at the individual and commercial levels.

I understand that your sector is expected to be among those which will enjoy such benefit. Christopher Fossick of Jones Lang LaSalle said that *if successfully implemented, the ASEAN Economic Opportunity will offer businesses unrestricted access to a unified market of 600 million people, 8% of the world's population, spread across nearly 4.5 million sq. km.*<sup>1</sup>

Having access to this kind of big market opens up endless opportunities for markets to thrive.

To better take advantage of opportunities of integration, we need to make sure that internal mechanisms are in place so we can also deal with the challenges that come with them.

We enjoy the upside. We are prepared for the downside.

We can learn much from study conducted within the ASEAN region.

According to the study, services constitute over one-fourth of global trade and 20 to 30% of value-added in GDP.<sup>2</sup> The AEC Blueprint sees trade in services as essential to the creation of an integrated market.<sup>3</sup> The usual restrictions and limitations are in the areas of technical regulations, licensing, and qualification requirements.

You see, while these provide protection and guarantee, they may also pose a hindrance and work a disadvantage against the market and the efficient provision of services.

There is an vital element necessary to the success of an ASEAN Economic Community.

This is the element of "trust".

Our ability to address the downsides help boost such trust.

We believe that the restrictions in the areas of regulation, licensing and the qualification of professionals can gradually be relaxed if we can trust each other – trust that we are doing our share in ensuring our respective internal processes can guarantee the highest standards of competence and professionalism.

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<sup>1</sup> <http://www.realttorney.com/2014/08/09/10-things-real-estate-service-practitioners-should-know-about-the-2015-asean-economic-integration/>

<sup>2</sup> Michael G. Plummer and Chia Siow Yue, Benefits of the AEC. Realizing the ASEAN Economic Community: A Comprehensive Assessment, 2009, Citing ADB 2007, Beyond the crisis: Emerging Trends and Challenges.

<sup>3</sup> Ibid., citing ADB, 2007, Workers in Asia part III. In Asian Development Outlook.

We are doing that in your sector.

Here is a good illustration: Republic Act No. 9646 or the Real Estate Service Act of the Philippines .

This was signed into law on 29 June 2009 in recognition of the vital role of real estate service practitioners by promoting the real estate market.

As we all know, it is our policy to develop and nurture a corps of technically competent, responsible and respected professional real estate service practitioners.

What protection is offered by RA 9646 for real estate service professionals in light of the imminent economic integration?

Let me quote from Section 29 of the law : *No person shall practice or offer to sell real estate service in the Philippines or offer himself/herself as real estate service practitioner, or use the title xxx or any sign tending to convey the impression that one is a real estate service practitioner xxx in any national government entity or local government unit, unless he/she has satisfactorily passed the licensure examination given by the Board except as otherwise provided in RA 9646 and the IRR xxx.*

Moreover, violations of RA 9646 committed by unlicensed practitioners warrant the imposition of penalty which is double the amount of fine of Php 100,00.00 and imprisonment of not less than two years or both which are imposable for practitioners when committing the same violation.

Our Supreme Court upheld the constitutionality of this law in a decision dated 4 February 2014.

According to our Supreme Court, and I quote, "*no right is absolute, and the proper regulation of a profession, calling, business or trade has always been upheld as a legitimate subject of a valid exercise of the police power of the State particularly when their conduct affects the execution of legitimate governmental functions, the preservation of the State, public health and welfare and public morals.*"<sup>4</sup> *xxx To pretend that licensing or accreditation requirements violate the due process clause is to ignore the settled practice, under the mantle of police*

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<sup>4</sup> Ibid., citing JMM Promotion and Management, Inc. v. Court of Appeals, 329 Phil. 87, 100.

*power, of regulating entry to the practice of various trades or professions.*<sup>5</sup>

Today, real estate developers employ a large number of brokers, salespersons, appraisers and consultants in response to growing number of housing and condominium projects being advertised and sold all over the country.

Former Senator Panfilo Lacson logically and reasonably explained in his sponsorship speech that real property transactions are prone to malpractices, especially in the hands of unqualified persons in an ineffective regulatory system.

There have been cases filed in court involving errant developers, operators or sellers who defaulted on their representations and obligations under government regulations.

The difference of real estate service practitioners with real property owners who sell their properties as isolated transactions and not in the ordinary course of business is that the former is under an obligation to ensure the health and safety of home and lot buyers.

While the law shields buyers from fraudulent representations by developers, sellers, brokers, and appraisers, the latter group also guarantees that the legitimate and honest professionals will not be unduly damaged by fraudsters to the detriment of the real estate industry.

Section 19 of RA 9646 enumerates the instances when a certificate of registration and the professional identification card may be revoked, cancelled, and/or suspended .

These include unprofessional or unethical conduct and malpractice or violation of any of the provisions of the Act, its implementing rules and regulations, and the Code of Ethics and Responsibilities for real estate service practitioners.

If certified practitioners face threats of suspension, more so unqualified individuals who usurp the duties of an honest and hardworking real estate service practitioner. That is why more severe sanctions are imposable under the law for usurpers as deterrent to crooks.

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<sup>5</sup> JMM Promotion and Management, Inc. v. Court of Appeals, 329 Phil. 87, 100 (1996), citing Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila, 127 Phil. 306.

We want to make sure that the law works together well with the economic integration. As that synergy happens, we address the concerns regarding the downside of the possible influx of professionals who may want to practice in the Philippines without the need to obtain additional qualifications which might defeat the policy declared in our laws regulating several professions.

Until the integration actually comes into being, we can only surmise on the effects it will have on the economy, markets, industries, and regulated professions.

To date, the ASEAN finalized Mutual Recognition Arrangements (MRAs) on accountancy services, engineering, architectural services, nursing services, dental practitioners, and medical practitioners. The list can grow until the onset of integration and even beyond. These arrangements will not authorize unlicensed individuals to practice a profession that neither the country of origin nor host country recognized him/her as a practitioner or professional.

Let us keep in mind that a Mutual Recognition Arrangement is merely a proposed arrangement between and among ASEAN member countries designed to facilitate the freer movement and employment of qualified and certified personnel between ASEAN member countries.

As such, it lists guidelines intended to promote economic integration and increased trade between nations as parties thereto.

As a means to achieve said objectives, an MRA necessarily has the effect of reducing regulatory impediments to the movement of goods and services.

But MRAs do not, by themselves, grant unbridled authority and recognition to unqualified individuals. For instance, the MRA for Nursing Services state *"ASEAN Member States hereby recognise that education, licences, demonstration of competencies and experience may be the principal elements considered in granting mutual recognition."*

We can rest assured that other MRAs, including one related to real estate service practitioners, would adopt the same principle as a protective measure in favor of the interests of both the host country and country of origin.

Today, you launched the International Realty Investment Summit and Expo. I laud your efforts to address the concerns of the realty sector and to provide a medium linking property buyers and sellers through this forum.

I support you in your efforts to come up with initiatives that will enhance and protect interests of the real estate industry in the region. I give my full support to the proposal for an inter-agency task force or mechanism to address colorums.

Best practices are always good sources, inspirations, and kick-off points. Use this opportunity to share with, learn from, and compile best practices and refer to regional counterparts a framework to further mutual interests.

It is our hope that through the iRISE we can formulate measures that will enhance chances of real estate service professionals to practice their profession in the region while improving service delivery.

A borderless market may have its downside. It has its many upsides too. Let's focus on the brighter side.

It is my pleasure and honor to be with you today.

My special thanks to the Philippine Association of Real Estate Boards and the Professional Regulatory Board of Real Estate Service for giving me the opportunity to speak in this event.

*Isang mainit at masarap na pagbati ng mabuhay sa inyong lahat.*

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