

MALACAÑAN PALACE MANILA PRESIDENTIAL DECREE No. 374

AMENDING CERTAIN SECTIONS OF REPUBLIC ACT No. 4846, OTHERWISE KNOWN AS "THE CULTURAL PROPERTIES PRESERVATION AND PROTECTION ACT."

WHEREAS, the National Museum has the difficult task, under existing laws and regulations, of preserving and protecting the cultural properties of the nation;

WHEREAS, it is perhaps impossible now to find an area in the Philippines, whether government or private property, which has not been disturbed by commercially minded diggers and collectors, literally destroying part of our historic past;

WHEREAS, because of this the Philippines has been charged as incapable of preserving and protecting her cultural heritage;

WHEREAS, the commercialization of Philippine relics from the contact period, the Neolithic Age, and the Paleolithic Age, has reached a point perilously placing beyond reach of savants the study and reconstruction of Philippine prehistory ; and

WHEREAS, it is believed that more stringent regulation on movement and a limited form of registration of important cultural properties and of designated national cultural treasures is necessary, and that regardless of the item, any cultural property exported or sold locally must be registered with the National Museum to control the deplorable situation regarding our national cultural properties and to implement the Cultural Properties Law;

Now, THEREFORE, I, FERDINAND. E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby decree, order and make as part of the law of the land the following:

Section 1. Sections 2 to 22 of Republic Act No. 4846 are hereby amended to read as follows:

«**Section 2.** It is hereby declared to be the policy of the state to preserve and protect the important cultural properties and National Cultural Treasures of the nation and to safeguard their intrinsic value."

«**Section 3.**

a. *Cultural properties* are old buildings, monuments, shrines, documents, and objects which may be classified as antiques, relics, or artifacts, landmarks, anthropological and historical sites, and specimens of natural history which are of cultural, historical, anthropological or scientific value and significance to the nation ; such as physical, anthropological, archaeological and ethnographical materials, meteorites and tektites; historical objects and manuscripts ; household and agricultural implements;

decorative articles or personal adornment; works of art such as paintings, sculptures, carvings, jewelry, music, architecture, sketches, drawings, or illustrations in part or in whole ;works of industrial and commercial art such as furniture, pottery, ceramics, wrought iron, gold, bronze, silver, wood or other heraldic items, metals, coins, medals, badges, insignias, coat of arms, crests, flags, arms, and armor; vehicles or ships or boats in part or in whole.

"b. Cultural properties which have been singled out from among the innumerable cultural properties as having exceptional historical and cultural significance to the Philippines, but are not sufficiently outstanding to merit the classification of "National Cultural Treasures" are *important cultural properties*.

"c. **A National Cultural Treasure** is a unique object found locally, possessing outstanding historical, cultural, artistic and/or scientific value which is significant and important to this country and nation.

"d. **Antiques** are cultural properties found locally which are one hundred years or more in age or even less, but their production having ceased, they have, therefore, become or are becoming rare.

"e. **Relics** are cultural properties which, either as a whole or in fragments, are left behind after the destruction or decay of the rest of its parts and which are intimately associated with important beliefs, practices, customs and traditions, periods and personages.

"f. **Artifacts** are articles which are products of human skills or workmanship, especially in the simple product of primitive arts or industry representing past eras or periods.

"g. **Natural History Specimens** are live or preserved specimens of plants and animals, fossils, rocks and minerals. Only types, presently irreplaceable specimens, and those in danger of extinction shall be embraced in this Act.

"h. **Type** as mentioned in Section seven-b in the context of this Act is a specimen selected as the best to represent a kind or class of objects consisting of many but almost identical individuals or pieces. In the case of specimens of natural history, the type is the individual specimen which was used as the basis of description establishing the species, in accordance with the rules of nomenclature.

"i. **A historical site** is any place, province, city, town and/or any location and structure which has played a significant and important role in the history of our country and nation. Such significance and importance may be cultural, political, sociological or historical.

"j. **An archaeological site** is any place which may be underground or on the surface, underwater, or at sea level which contains fossils, artifacts and other cultural, geological, botanical, zoological materials which depict and document evidence of paleontological and pre-historic events.

"k. **An anthropological area** is any place where studies of specific cultural groups are being/or should be undertaken in the field of anthropology. Anthropology in this

case is descriptive, interpretative and comparative study of all aspects of various cultural linguistic groups including the collection and analysis of their particular material culture.

"i. Collector is any person or institution who acquires cultural properties and National Cultural Treasures for purposes other than sale.

"m. Dealers are persons or enterprises who acquire cultural properties for the purpose of engaging in the acquisition and resale of the same.

"n. Exporters are dealers who engage in the business of exporting cultural properties.

"o. For purposes of Republic Act No. 4846 government property covers all lands and marine areas including those covered by licenses or special permits and those owned or administered by government owned or controlled corporations, institutions or agencies. "

«Section 4. The National Museum, hereinafter referred to as the Museum, shall be the agency of the government which shall implement the provisions of this Act."

«Section 5. The Director of the Museum, hereinafter referred to as the Director, shall undertake a census of the important cultural properties of the Philippines, keep a record of their ownership, location, and condition, and maintain an up-to-date register of the same. Private collectors and owners of important cultural properties and public and private schools in possession of these items, shall be required to register their collections with the Museum when required by the Director and to report to the same office when required by the Director any new acquisitions, sales, or transfers thereof."

«Section 6. The Director is authorized to convene panels of experts, as often as the need for their services may arise, each to be composed of three competent men in the specialized fields of anthropology, natural sciences, history and archives, fine arts, philately and numismatics, and shrines and monuments, etc. Each panel shall, after careful study and deliberation, decide which among the cultural properties in their field of specialization shall be designated as 'National Cultural Treasure' or 'Important Cultural Properties.' The Director is further authorized to convene panels of experts to declassify designated 'National Cultural Treasures.'

"The Director shall within ten days of such action by the panel transmit their decision and cause the designation-list to be published in at least two newspapers of general circulation. The same procedure shall be followed in the declassification of important cultural properties and national cultural treasures."

«Section 7. In the designation of a particular cultural property as a 'national cultural treasure', the following procedure shall be observed:

"a. Before the actual designation, the owner, if the property is privately owned, shall be notified at least fifteen days prior of the intended designation, and shall be invited to attend the deliberation and given a chance to be heard. Failure on the part of the owner to attend the deliberation shall not bar the panel to render its decision.

Decision shall be given by the panel within a week after its deliberation. In the event that the owner desires to seek reconsideration of the designation made by the panel, he may do so within thirty days from the date that the decision has been rendered. If no request for reconsideration is filed after this period, the designation is then considered final and executory. Any request for reconsideration filed within thirty days and subsequently again denied by the panel, may be further appealed to another panel chaired by the Secretary of Education, with two experts as members appointed by the Secretary of Education. Their decision shall be final and binding.

"**b.** Within each kind or class of objects, only the rare and unique objects may be designated as 'National Cultural Treasures.' The remainder, if any, shall be treated as cultural property.

"**c.** Designated 'National Cultural Treasures' shall be marked, described, and photographed by the National Museum. The owner retains possession of the same but the Museum shall keep a record containing such information as : name of article, owner, period, source, location, condition, description, photograph, identifying marks, approximate value, and other pertinent data."

«**Section 8.** National Cultural Treasures shall not change ownership, except by inheritance or sale approved by the Director of the National Museum, without the prior notification to and notations made by the Museum in the records. They may not be taken out of the country for reasons of inheritance. Where there is no heir, National Cultural Treasures shall revert to the National Museum or to any other state museum."

«**Section 9.** National Cultural Treasures may be taken out of the country only with written permit from the Director of the National Museum, and only for the purpose of exchange programs or for scientific scrutiny, but shall be returned immediately after such exhibition or study: **Provided**, that the Director of the National Museum shall require that the cultural treasures be adequately insured against loss or damage by the owners thereof, and shall be properly accompanied by a duly authorized representative of the National Museum and/or protected.

«**Section 10.** It shall be unlawful to export or to cause to be taken out of the Philippines any of the cultural properties defined in Section three of this Act, without previous registration of the objects with the National Museum and a written permit from the Director of the National Museum: **Provided**, however, that in the granting or the withholding of the permit, the provisions of Section Seven of this Act shall have been satisfied."

«**Section 11.** No cultural property may be imported without an official certification of exportation from the country of origin.

«**Section 12.** It shall be unlawful to explore, excavate, or make diggings on archaeological or historical sites for the purpose of obtaining materials of cultural or historical value without the prior written authority from the Director of the National Museum. No excavation or diggings shall be permitted without the supervision of an archaeologist certified as such by the Director of the National Museum, or of such other person who in the opinion of the Director is competent to supervise the work, and who shall, upon completion of the project, deposit with the Museum a catalogue

of all materials found thereon, and a description of the archaeological context in accordance with accepted archaeological practices. When excavators shall strike upon any buried cultural property, the excavation shall be suspended and the matter reported immediately to the Director of the National Museum who shall take the appropriate steps to have the discovery investigated and to insure the proper and safe removal thereof, with the knowledge and consent of the owner. The suspension shall not be lifted until the Director of the National Museum shall so allow it.

All explorations, excavations, or diggings on government and private property for archaeological or historical purposes shall be undertaken only by the National Museum, or any institution duly authorized by the Director of the National Museum.

«**Section 13.** All restorations, reconstructions, and preservations of government historical buildings, shrines, landmarks, monuments, and sites, which have been designated as 'National Cultural Treasures,' and 'important cultural properties' shall only be undertaken with the written permission of the Director of the National Museum who shall designate the supervision of the same.

«**Section 14.** Any donation or support by private individuals or institutions to the National Museum, and any investment for the purchase of cultural properties registered with the National Museum or for the support of scientific and cultural expeditions, explorations, or excavations wher so certified by the Director of the National Museum, shall be tax-exempt and deductible from the income tax returns of the individual or institution.

"Donations of National Cultural Treasures and important cultural properties to the National Museum or any accredited institution for preservation for posterity, or any monetary contribution to the National Museum or any accredited institution for the purchase of National Cultural Treasures and important cultural properties shall also be deductible from the income tax returns: *Provided*, that such donations are duly acknowledged and receipted by the recipient and certified by the Director of the National Museum."

«**Section 15.** Any cultural property for sale as allowed under this Act, should be registered with the National Museum and the proceeds thereof shall be considered as income and therefore subject to taxation : *Provided*, however, that the Government shall be given the first option for three months to buy these cultural properties when placed on sale."

«**Section 16.** All dealers of cultural properties shall secure a license as a dealer in cultural properties from the Director of the National Museum."

«**Section 17.** All dealers engaged in the business of exporting cultural properties shall secure a license as exporter of cultural properties from the Director of the National Museum."

«**Section 18.** The Director of the National Museum is hereby empowered to promulgate rules and regulations for the implementation of the provisions of this Act, which rules and regulations shall be given directly to known collectors, excavators, archaeologists, dealers, exporters and others affected by this Act. Such rules and regulations shall be approved by the Secretary of Education."

«**Section 19.** The Museum may collect fees for registrations, licenses, inspections, certifications authorizations, and permits in compliance with the provisions of this Act: *Provided*, that the objects or materials attempted to be concealed from registration or those intended to be exported in violation of this Act shall be confiscated and forfeited to the Government: *Provided, further*, that if the violation is committed by a juridical person, the manager, representative, director, agent, or employee of said juridical person responsible for the Act shall be liable to the penalties provided herein."

«**Section 20. Penal Provisions.** Any violation of the provisions of this Act shall, upon conviction, subject the offender to a fine of not more than ten thousand pesos or imprisonment for a term of not more than two years or both upon the discretion of the court: *Provided*, that objects or materials attempted to be concealed from registration or those intended to be exported or excavated in violation of this Act shall be summarily confiscated and forfeited to the National Museum: *Provided, further*, that if the violation is committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall also be liable to the penalties provided herein."

«**Section 21.** There shall be created a division of cultural properties in the National Museum clothed with adequate police power to prosecute violators of this Act."

«**Section 22.** The sum of one hundred thousand pesos (100,000 pesos) is hereby appropriated annually out of any funds in the National Treasury, not otherwise appropriated, to carry out the provisions of this Act."

SEC. 2. Any provisions of existing law, rules and regulations inconsistent with the provisions of this Decree are hereby repealed and modified accordingly.

SEC. 3. This decree shall take effect fifteen (15) days after publication in the Official Gazette.

Done in the City of Manila, this 10th day of January in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS
President
Republic of the Philippines