

RULES AND PROCEDURES GOVERNING LAND TRANSACTION

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I

Legal Mandate

A. Registration of Deeds — Upon the effectivity of Republic Act No. 6657, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; Provided, however, that those executed prior to this Act shall be valid only when registered with the Register of Deeds within three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

B. Disposition of Private Agricultural Lands — The sale or disposition of agricultural lands retained by a landowner as a consequence of Section 6 of R.A. 6657 shall be valid as long as the total landholding that shall be owned by the transferee thereof inclusive of the land to be acquired shall not exceed the landholding ceilings provided in R.A. 6657.

Transferees of agricultural lands shall furnish the appropriate Register of Deeds and the BARC an affidavit attesting that their respective total landholdings as a result of the said acquisition do not exceed the landholding ceiling. The Register of Deeds shall not register the transfer of any agricultural land without the submission of such sworn statement together with proof of service of a copy thereof to the BARC.

C. Transfer and Conversion of Lands Outside Urban Centers Prohibited — The sale, transfer, conveyance or change of the nature of lands outside the urban centers and city limits either in whole or in part after the effectivity of R.A. 6657 is prohibited except as provided for under DAR Administrative Order No. 15, Series of 1988. The date of the registration of the deed of conveyance with the Register of Deeds with respect to titled lands and the date of the issuance of the Tax Declaration to the transferee of the property with respect to unregistered lands, as the case maybe, shall be conclusive for the purpose of the aforesaid act.

Likewise prohibited is the sale, transfer, or conveyance by the beneficiary of the right to use or any other usufructuary right over the land he acquired by virtue of being a beneficiary, in order to circumvent the provisions of R.A. 6657.

D. Transferability of Awarded Lands — Lands acquired by beneficiaries under R.A. 6657 may not be sold transferred or conveyed within a period of ten (10) years except through hereditary succession, or to the DAR or LBP, or to other qualified beneficiaries; Provided, however, that the children or the spouse of the transferor shall have a right to repurchase the land from the DAR or LBP within a period of two (2) years. Due notice of the availability of the land shall be given by the LBP to the BARC of the Barangay where the land is located. The Provincial Agrarian Reform Coordinating Committee (PARCCOM), as provided by law, shall, in turn, be given due notice thereof by the BARC.

If the land has not yet been fully paid by the beneficiary, the rights to the land may be transferred or conveyed, with prior approval of the DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition ;or such transfer or conveyance, shall cultivate the land himself. Failing compliance herewith, the land shall be transferred to the LBP which shall give due notice of the availability of the land in the manner specified in the immediately preceding paragraph.

In the event of such transfer to the LBP, the latter shall compensate the beneficiary in one lump sum for the amounts the latter has already paid, together with the value of improvements he has made on the land.

E. Bank Mortgages — Banks and other financial institutions allowed by law to hold mortgage right or security interests in agricultural lands to secure loans and other obligations of borrowers may acquire title to these mortgaged, properties, regardless of areas, subject to existing laws on compulsory transfer of foreclosed assets and acquisitions as prescribed under Section 16 of R.A 6657.

II

Rules on Validity of Land Transactions

A. The following transactions are valid:

1. Those executed by the original landowner in favor of a qualified beneficiary from among those certified by DAR.
2. Those in favor of the government, DAR or the Land Bank of the Philippines.
3. Those covering lands retained by the landowner under Section 6 of R.A. 6657 duly certified by the designated DAR Provincial Agrarian Reform Officer (PARO) as a retention area, executed in favor of transferees whose total landholdings inclusive of the land to be acquired do not exceed five (5) hectares; subject, however, to the right of preemption and/or redemption of tenant/lessee under Sections 11 and 12 of R.A. 3844 as amended.

Retention area will refer to the parcel of land, or portion thereof, selected by the landowner as his retained area to remain under his full ownership and control after his landholding has been acquired by the government or covered by CARP and distributed to the beneficiaries, as evidenced by a Certificate of Retention issued by the PARO.

4. Those executed by beneficiaries covering lands acquired under any agrarian reform law in favor of the government, DAR, LBP or other qualified beneficiaries certified by DAR.
5. Those executed after ten (10) years from the issuance and registration of the Emancipation Patent or Certificate of Land Ownership Award.

B. The following transactions are not valid:

1. Sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner prior to June 15, 1988, which are not registered on or before September 13, 1988, or those executed after June 15, 1988, covering an area in excess of the five-hectare retention limit in violation of R.A. 6657.
2. Those covering lands acquired by the beneficiary under R.A. 6657 and executed within ten (10) years from the issuance and registration of an Emancipation Patent or Certificate of Land Ownership Award.
3. Those executed in favor of a person or persons not qualified to acquire land under R.A. 6657.
4. Sale, transfer, conveyance or change of nature of lands outside of urban centers and city limits either in whole or in part after June 15, 1988, when R.A. 6657 took effect, except as provided for under DAR Administrative Order No. 15, Series of 1988.
5. Sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he acquired by virtue of being a beneficiary, in order to circumvent the law.

C. The following are not prohibited transactions and may be registered by the Register of Deeds without prior

clearance from DAR:

1. Deed of extra judicial partition of the property of a deceased who died prior to June 15, 1988.
2. Deed of partition of property owned in common by co-owners prior to June 15, 1988.
3. Subdivision of title without change of ownership.
4. Deed of real estate mortgage executed by the original landowner or beneficiary.

III

Operating Procedures

In the issuance of clearance required under these Rules, the following Procedures shall be followed:

A. A written request shall be filed by the applicant with the Municipal Agrarian Reform Office (MARO) having territorial jurisdiction over the subject land, attaching thereto the following documents:

1. Deed or instrument to be registered.
2. OCT/TCT or Tax Declaration if the land is not covered by a Certificate of Title.
3. Affidavit of transferee that he/she and spouse have a total landholding inclusive of the land to be acquired of not more than five (5) hectares. Copy of the affidavit shall be furnished the BARC, with proof of service indicated on or attached to the copy for the Register of Deeds. (Affidavit Form as Annex "A").
4. Affidavit of transferor stating that the land subject of deed is a retention or portion of the retention area. (Affidavit Form as Annex "B").

B. The MARO shall determine the accuracy/truth of the instrument/deed and affidavits, as well as:

1. Conduct field verification whether or not the subject land is tenanted by a person other than the transferee.
2. Ascertain whether the subject land is a retention v part of the retention area of the vendor/transferor;
3. Determine whether or not the total landholding of transferee and his spouse will, as a result of the deed, exceed the landownership ceiling.

C. The MARO shall then forward the request, together with all the attached documents, to the PARO with his comments and recommendation. A copy of the request and other attachments thereof shall be retained for MARO files.

D. The PARO shall examine the request and all the attached documents. If in order, he shall issue a clearance for the registration of the subject deed. (Certification as Annex "C").

E. The Register of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural land in excess of five (5) hectares.

IV

Tenant's/Lessee's Rights of Preemption or Redemption

A. In case the landowner/ lessor decides to sell his tenanted/leased land, he must first offer to sell it to the tenant or lessee thereof who has the preferential right to buy the same under reasonable terms and conditions as provided for under Section 11 of R.A. 3844, as amended.

B. If the land was sold to a third person without the knowledge of the tenant/lessee thereof, the latter shall have the right to redeem the same at a reasonable price and consideration in the manner prescribed under Section 12 of R.A. 3844, as amended.

C. The sale or transfer to the government, LBP or DAR of lands acquired by the beneficiary under R.A. 6657 shall be subject to the right of the children or spouse of the beneficiary to repurchase the land from the government, DAR or LBP within a period of two (2) years.

V

Lands Subject to Mortgage or Encumbrance

The following lands may be subject matter of mortgage, lien or encumbrance to guarantee any loan obligation secured to develop or improve the same:

1. Lands not yet acquired by DAR under R.A. 6657.
2. Those lands chosen by the landowners as their retention areas.
3. Land already awarded/allocated to beneficiaries.

Those banks authorized to hold mortgage encumbrance on agricultural lands may acquire titles to these mortgaged properties subject to existing laws on compulsory transfer of foreclosed assets and acquisition as provided for under Sections 16 and 71 of R.A. 6657.

All orders, circulars, memoranda or portions thereof inconsistent herewith are hereby revoked, cancelled or modified as the case may be.

This Order shall take effect ten (10) days after publication in two (2) national newspapers of general circulations pursuant to Section 49 of R.A. 6657.

Adopted: 3 Jan. 1989

(SGD.) PHILIP ELLA JUICO

Secretary

Effective: 26 January 1989

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