

RULES AND PROCEDURES ON LEASEHOLD OPERATIONS IN TENANTED SUGARCANE LANDS

DAR ADMINISTRATIVE ORDER NO. 04 S. 1992, April 06, 1992

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I

Prefatory Statement

Under Section 12 of RA 6657, the DAR is mandated to determine and fix immediately the lease rentals in tenanted lands under the retention limit and lands not yet acquired under RA 6657. Pursuant to the said provision, the DAR issued Administrative Order No. 4, series of 1989 to provide guidelines for the establishment of leasehold and the determination of lease rentals for tenanted lands.

In order to guide DAR field personnel in fixing the lease rental in tenanted sugarcane lands, these supplemental guidelines are hereby issued.

II

Governing Principles

A. Tenancy relationship in sugarcane areas exists when the following requisites are present:

- The parties are the landowner and the tenant;
- There is consent by the landowner for the tenant to work on the land — either orally or in writing, expressly or impliedly;
- The subject land is agricultural in nature;
- The purpose is agricultural production;
- There is sharing of harvests or there is a consideration for the lease of the land in an amount certain in money or in produce, or both; and
- There is personal cultivation on the part of the tenant and/or with the aid of labor from within his immediate farm household.

B. Cultivation is not limited to the plowing and harrowing of the land, but also the husbanding of the ground to forward the products of the earth by general industry; taking care of the land and fruits growing thereon; fencing of certain areas; and clearing thereof by gathering dried leaves and cutting of grasses.

Further the caretaker of an agricultural land may also be considered as the cultivator of the land if he performs such chores as watering the trees, fertilizing them for better production, uprooting weeds and turning the soil, and periodically fumigating the plants to eliminate pests.

C. Notwithstanding existing contracts, the landowner-planter and the tenant-lessee shall enter into an agricultural leasehold contract (ALC) as mandated under Section 12 of RA 6657, Administrative Order No. 4, series of 1989, and other pertinent provisions of the laws.

Among others, the ALC shall explicitly stipulate the right of the agricultural lessee to deal with the millers and processors and to attend to the issuance of quedans and warehouse receipts for the produce due him pursuant to Section 23 of RA 3844, as amended.

D. The tenant-lessee shall, by operation of law, have the following rights to be exercised by him personally or through a duly registered cooperative of which he is a bonafide member:

- To be issued a warehouse receipt (quedan) or molasses storage certificate by the sugar-central for his share in the manufactured sugar and/or molasses.
- To have free access to the sugar-central's factory, facilities, and laboratory for purposes of checking and/or verifying records and procedures in the processing of sugarcane through professional representation.
- To be furnished a weekly statement of cane and sugar account showing among other things the tonnage of the delivered cane and analysis of the crusher juice.
- To be given thirty (30) days notice in writing before his share in the stored sugar is sold through public auction.
- To be provided with standard tonnage allocation by the miller/sugar central.

E. The determination of the average normal harvest to be used in computing the lease rental in sugarcane lands shall be based on the following:

- If the leasehold tenancy relationship existed before 15 June 1988, the effectivity of RA 6657, the average normal harvest of the three agricultural years immediately before the date the leasehold relationship was established shall be used.
- If the leasehold tenancy relationship was established on 15 June 1988 by operation of RA 6657, the average normal harvest of the three agricultural years immediately before the said date shall be used.

The normal harvest shall mean the usual or regular produce obtained from the land when it is not affected by any fortuitous event or force majeure such as typhoon, flood, drought, earthquake, volcanic eruption, and the like.

The landowner and the tenant shall use the quedan certificate or warehouse receipts, and molasses storage certificate issued by the sugar central/miller as basis for determining the amount of sugar and the quantity of molasses in kilos to which the Planter and the miller are entitled.

F. An agricultural year for sugarcane shall be understood to mean the period from land preparation to harvesting. Ratooning (from trash burning to harvesting) shall likewise be considered as one agricultural year.

G. The leasehold agreement shall include both the sugarcane products (sugar) and by-products (molasses), and the lease rental shall be computed pursuant to Administrative Order No. 4, series of 1989 (Refer to Annex 1[*] for sample computation).

H. The lease rental of the land shall be paid in an amount certain in money or in produce, or both, as may be agreed upon by the parties. Such rental shall be paid after the exact produce shall have been determined using the Certificate of Quedan and molasses storage certificate issued by the sugar central/miller.

I. The allowable deductible items in sugarcane are the following:

1. Cost of seeds/cane points;
2. Cost of harvesting (cutting);
3. Cost of loading;
4. Cost of hauling if any; and

5. Cost of processing (milling cost).

J. Pursuant to Section 31 of RA 3844, as amended, it shall be unlawful for the agricultural lessor to require the agricultural lessee to assume, directly or indirectly, any part of the rent, or other consideration which the agricultural lessor is under the obligation to pay to third persons for the use of the land.

Section 15 of the same law also provides that any contract by which the agricultural lessee is required to accept a loan or to make payment therefor in kind shall be contrary to law, morals, or public policy.

Finally, Section 29 (4) of the same law provides that it shall be the right of the agricultural lessor to mortgage expected rentals.

Notwithstanding the above provisions of the law and any contract of mortgage existing between the landowner-planter and financial institutions to the contrary, it is unlawful for the landowner-planter to mortgage to any entity (e.g., banks or any financial institutions) that part of produce which is due to the agricultural lessee.

L. The DAR shall encourage the sugarcane farmer-lessees to establish associations or cooperatives which shall assist them or directly deal with the millers, processors, and financial and banking institutions. The DAR shall likewise assist farmer-lessees to secure milling accommodations and/or membership in sugar planters associations.

III

Procedures

A. The MARO shall identify all tenanted sugarcane landholdings covered by leasehold, and the planter-landowners and tenants thereof.

B. In coordination with the BARC, the MARO shall conduct a mediation conference between the contracting parties to determine and fix the lease rental.

C. The contracting parties will be required to present production data or records of the landholding involved (e.g. Quedan certificates or warehouse receipts, and molasses storage certificates previously issued by the sugar central/miller for the past three normal agricultural years).

D. On the basis of these documentary evidence and using the prescribed Agricultural Leasehold Contract (ALC), the MARO shall compute for the lease rental applying the formula prescribed under Section 34 of RA 3844, as amended, and AO 4, Series of 1989.

E. The ALC shall be drawn in six copies in a language or dialect known to the tenant-lessee, signed or thumbmarked by the parties or their duly authorized representatives before two witnesses, and notarized by a DAR lawyer commissioned as Notary Public or by the Municipal Trial Court Judge in the area. The MARO shall cause the registration of the ALC with the Municipal Treasurer.

F. In case of disagreement or non-approval by the contracting parties involved in the determination of the lease rental, the DAR shall issue an Order of Lease Rental in accordance with the procedures stipulated under Item V.D of AO 4, series of 1989.

G. The MARO shall explain fully to the contracting parties the terms and conditions stipulated in the ALC, and inform them of their rights and obligations as well as the sanctions that may be imposed on them.

H. The MARO shall furnish the sugar central/miller a copy of the ALC.

IV

Effectivity

This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation.

This Order supplements Administrative Order No. 4, Series of 1989 and amends or revokes all previous issuances which are inconsistent with it.

Adopted: 6 Apr. 1992

(SGD.) BENJAMIN T. LEONG
Secretary

[*] Text available upon request at the Office of the National Administrative Register (ONAR), U.P. Law Center, Diliman, Quezon City

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