

## REVISED RULES AND REGULATIONS IMPLEMENTING SECTION 19 OF R.A. NO. 9700 (JURISDICTION ON AND REFERRAL OF CASES THAT ARE AGRARIAN IN NATURE)

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Section 1. Prefatory Statement — Section 19 of Republic Act (R.A.) No. 9700 provides:

"Sec. 19. Section 50 of Republic Act No. 6657, as amended, is hereby further amended by adding Section 50-A to read as follows:

"Sec. 50-A. Exclusive Jurisdiction on Agrarian Dispute. — No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the CARP except those provided under Section 57 of Republic Act No. 6657, as amended. If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify within fifteen (15) days from referral whether an agrarian dispute exists: Provided, That from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial court and the prosecutors's office, the appeal shall be with the proper regional trial court and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals.

"In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and / or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interest under the CARP.

"The fact of non-registration of such associations with the Securities and Exchange Commission, or Cooperative Development Authority, or any concerned government agency shall not be used against them to deny the existence of their legal sanding and interest in a case filed before such courts and quasi-judicial bodies."

Whether or not a case is agrarian in nature is discussed in the case of DAR vs. Roberto Cuenca, et al. (G.R. No. 154112,23 September 2004) where the Supreme Court held that: "All controversies on the implementation of the Comprehensive Agrarian Reform Program (CARP) fall under the jurisdiction of the Department of Agrarian Reform (DAR), even though they raise questions that are also legal or constitutional in nature. All doubts should be resolved in favor of the DAR, since the law has granted it special and original authority to hear and adjudicate agrarian matters "

From the foregoing, it is therefore declared that the Department of Agrarian Reform (DAR) shall have exclusive jurisdiction on all cases that are agrarian in nature.

Section 2. Cases Covered. — These guidelines shall apply to the procedure on the . referral of cases which are agrarian in nature to the DAR by the Prosecutor's Office, the Municipal Circuit Trial Court, Municipal Court, Metropolitan Trial Court and the Regional Trail Court (MCTC, MTC, MeTC, and RTC, respectively), whether it be criminal or civil in nature, except those involving issues of just compensation or the prosecution of criminal offenses as provided for by Section 57 of R.A. No. 6657, as amended by R.A. No. 9700.

Section 3. When Automatic Referral Shall Be Made 151 The referral to the DAR of case by the Prosecutor's

Office, MCTC, MTC, MeTC, or RTC, shall be made in accordance with Department of Justice (DOJ) Circular No. 40, dated 10 June 2010, Supreme Court Office of the Court Administrator (OCA) Circular No. 62-2010, dated 28 April 2010, and other related circulars and issuances.

DOJ Circular No. 40 states:

"When a complaint for a felony or a criminal offense is filed before the Office of the City or Provincial Prosecutor the investigating prosecutor shall refer the case to the Provincial Agrarian Reform Officer (PARO) who has jurisdiction over the place of the incident when:

(a) there is an allegation by any of the parties (e.g. allegation in the complaint, affidavit or counter-affidavit, etc.) that the case is agrarian in nature or an agrarian dispute and one of the parties is a tenant, lessee, farmer-beneficiary, farmer, or farmworker; or

(b) the case pertains to the implementation of the CARP except those provided under Section 57 of Republic Act No. 6657, as amended."

"When the case is subject of inquest and there is an allegation by any of the parties that the case is agrarian in nature or an agrarian dispute and one of them is a farmer, farmworker or tenant, or involves the implementation of the CARP, the inquest prosecutor shall immediately refer the case to the PARO and release the respondent for further preliminary investigation. The above allegations must be written, made under oath, and the party making such allegations signs the Minutes of the Inquest."

OCA Circular No. 62-2010, on the other hand, directs all courts and judges concerned to "refer all cases before it alleged to involve an agrarian dispute to the DAR".

For easy reference, copies of DOJ Circular No. 40[\*] dated 10 June 2010 and OCA Circular No. 62-2010\* shall be attached hereto.

**Section 4. To whom Shall Referral Be Made.** — If the case to be referred to the DAR by the Prosecutor's Office, MCTC, MTC, MeTC, or RTC is not directly referred to the Provincial Agrarian Reform Office (PARO) of the place where the agricultural land subject of the case is located, the receiving DAR Office shall transmit it to him within twenty-four (24) hours from its receipt of the referral.

**Section 5. Issues To Be Determined.** — Upon referral, the PARO may only give a ruling as to two issues:

(1) Whether or not the cause of action of the pending case with referring Court or Office of the Public Prosecutor is agrarian in nature, the jurisdiction of which is lodged exclusively with DAR; or

(2) Whether or not a matter within the exclusive jurisdiction of the DAR is a prejudicial question to the issue pending with the referring Court or Office of the Public Prosecutor.

No other issue may be adjudicated or determined by the PARO.

**Section 6. Procedures.** —

1. Upon receipt of the record of the case, the PARO shall, on the same day, immediately assign the said case to the Chief of the Legal Division of the DAR Provincial Office concerned for the conduct of a summary investigation proceedings for the sole purpose of determining whether or not an agrarian dispute exists or if the case is agrarian in nature. The Chief of the DAR Legal Division concerned may assign the case to a DAR lawyer or legal officer for the purpose of conducting the said summary proceeding or fact-finding investigation.

2. The Chief of the DAR Legal Division, or the DAR lawyer or legal officer assigned shall, within three (3) days from receipt of the case referred from the PARO, personally or in such a manner that will ensure the receipt

thereof (e.g., commercial couriers, fax, electronic mail, phone call, etc.), serve upon each party to the case a notice stating therein the hour, date, and place of the proceedings. The summary proceedings shall be held, as far as practicable, in the municipality or barangay where agricultural landholding is located or where the biggest portion of the landholding is located if the land overlaps two (2) or more municipalities or barangays. The parties shall be required to present their witnesses, documentary evidence, or any object evidence to support their respective positions as to the existence of an agrarian dispute on whether the case is agrarian in nature. The Chief of the DAR Legal Division, or the DAR lawyer or legal officer assigned shall require the Agrarian Reform Program Technologist (ARPT) of the place where the subject agricultural landholding is located to submit his comments thereto.

3. The said notice shall likewise require the parties to submit their respective verified position papers, attaching thereto all their evidence, within five (5) non-extendible days from receipt of such notice.

4. After the conclusion of the summary proceedings and the submission of all position papers, or upon the expiration of the five (5) day period as provided herein, the matter or issue shall be deemed submitted for resolution. No other pleading or motion shall thereafter be received or given due course.

5. Within three (3) days from the time the matter or issue is deemed to be submitted for resolution, the Chief of the DAR Legal Division, or the DAR lawyer or legal Officer assigned, shall, after a thorough examination of the testimonies of the parties and his/her witnesses, the respective verified position papers, and the documentary evidence thus submitted, submit his/her report to the PARO. The report shall indicate his/her initial findings of the facts and circumstances of the case and as to whether an agrarian dispute exists or not on whether the case is agrarian in nature. The position papers, transcript of stenographic notes, and the entire records of the case shall be attached to the report.

The determination by the DAR as to whether an agrarian dispute exists or not, or on whether the case is agrarian in nature, shall be done through a summary proceeding involving a strictly factual investigation. No motion for extension of time or any similar pleading of a dilatory character shall be entertained nor given due course. To this end, the Chief of the Legal Division or the DAR lawyer or legal officer assigned, shall exert all reasonable means to ascertain the facts based on the testimonies and evidence presented. They may verify the position papers submitted by the parties, ascertaining that the concerned party is the one causing the preparation thereof, and that the allegations therein are true based on personal knowledge or authentic records and documents.

To preclude conflict of interest, in no case should the DAR lawyer serving as counsel for the farmer-beneficiary be assigned as the hearing officer. Moreover, no hearing officer should handle a case involving a relative within the fourth degree of consanguinity or affinity who is a party thereto.

Section 8. Prima Facie Presumption of an Existence of Agrarian Dispute or That the Case is Agrarian in Nature. The presence of any of the following facts or circumstances shall automatically give rise to a prima facie presumption that an agrarian dispute exist or that case is agrarian in nature:

- (a) A previous determination by the DAR that an agrarian dispute exists or that the case is agrarian in nature, or the existence of a pending action with the DAR, whether an Agrarian Law Implementation (ALI) case or a case before the DAR Adjudication Board (DARAB), which involves the same landholding;
- (b) A previous determination by the National Labor Relations Commission or its Labor Arbiters that the farmworker is/was an employee of the complainant;
- (c) A notice of coverage was issued or a petition for coverage under any agrarian reform program was filed on the subject landholding; or

(d) Other analogous circumstances.

If there is a prima facie presumption that an agrarian dispute exists or that the case is agrarian in nature, the burden of proving the contrary shall be on the party alleging the same.

**Section 9. Facts Tending To Prove that a Case is Agrarian in Nature.** —In addition to the instances mentioned in Section 7 hereof, the Chief of the Legal Division, or the DAR lawyer or legal officer assigned, in determining whether the case is agrarian in nature, shall be guided by the following facts and circumstances:

1. Existence of a tenancy relationship;
2. The land subject of the case is agricultural;
3. Cause of action involves ejectment or removal of a farmer, farmworker, ortenant;
4. The crime alleged arose out of or is in connection with an agrarian dispute (i.e., theft or qualified theft of farm produce, estafa, malicious mischief, illegal trespass, etc.) Provided, that the prosecution of criminal offenses penalized by R.A. 6657, as amended, shall be within the original and exclusive jurisdiction of the Special Agrarian Courts;
5. The land subject of the case is covered by a Certificate of Land Ownership Award(CLOA), Emancipation Patent (EP), or other title issued under the agrarian reform program, and that the case involves the right of possession, use, and ownership hereof; or
6. The civil case filed before the court of origin concerns the ejectment of farmers/tenants/farmworkers, enforcement or rescission of contracts arising from, connected with, or pertaining to an agribusiness Ventures Agreement (AVA), and the like.

The existence of one or more of the foregoing circumstances may be sufficient to justify a conclusion that the case is agrarian in nature. The Chief of the Legal Division, or the DAR lawyer or legal officer assigned, shall accordingly conclude that the case is agrarian in nature cognizable by the DAR, and thus recommend that the referred case is not proper for trial.

**Section 10 DAR. Certification.** — The PARO shall issue the Certification within forty-eight (48) hours receipt of the report of the Chief of the Legal Division, DAR lawyer, or Legal Officer concerned. Such Certification shall state whether or not the referred case is agrarian in nature, as follows:

(a) Where the case is NOT PROPER for trial for lack of jurisdiction:

After a preliminary determination of the relationship between the parties pursuant to Section 50-A of R.A. No. 66576, as amended, this Office hereby certifies that the case is agrarian in nature within the primary and exclusive jurisdiction of the DAR. It is therefore recommend t the referring (court/prosecutor) that the case be dismissed for lack of jurisdiction.

(b) Where the case is NOT YET PROPER the trial due to a prejudicial question:

After a preliminary determination of the relationship between the parties pursuant to Section 50-A of R.A. No. 6657, as amended, this Office hereby certifies that a prejudicial question exists the determination of which is agrarian in nature and thus within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring (Court/Prosecutor) that the case be archived until the determination of the DAR of the prejudicial question.

c) Where the case is PROPER for trial:

This Office hereby certifies that the case is not agrarian in nature. It is therefore recommended to the referring (court/prosecutor) to conduct further proceedings.

The Certification shall state the findings of fact upon which the determination by the PARO was based.

Section 11. Return of Referred Case. — The PARO shall transmit the Certification together with the complete records of the case and pertinent documentation, to the referring Court or Office of the Public Prosecutor within twenty-four (24) hours from its issuance.

Section 12. Recommendation of the PARO is Final. — Final recommendation of the PARO is final and non-appealable. Any party who may disagree with the recommendation of the PARO has judicial recourse by submitting his/her/its position to the referring Court or Office of the Public Prosecutor in accordance with the latter's rules.

Section 13. Separability Clause. — Any judicial pronouncement declaring unconstitutional any provision of these Rules shall have no effect on the validity of the other provisions not affected thereby.

Section 14. Repealing Clause. — A.O. No. 4, Series of 2009 is hereby repealed.

Section 15. Transitory Provision. This A.O. shall apply to all cases pending with all Prosecutor's Office, MCTCs, MTCs, MeTCs and RTCs at the time of the effectivity of this A.O.

Section 16. Effectivity. — This A.O. shall take effect upon its publication in at least two (2) national newspapers of general circulation.

Adopted: 19 July 2011

(SGD.) VIRGILIO R. DELOS REYES

Secretary

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