ROXAS & CO., INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, DEPARTMENT OF AGRARIAN REFORM, SECRETARY OF AGRARIAN REFORM, DAR REGIONAL DIRECTOR FOR REGION IV, MUNICIPAL AG...

G.R. No. 127876. December 17, 1999

Ponente: PUNO, J.

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PUNO, J.:

This case involves three (3) haciendas in Nasugbu, Batangas owned by petitioner and the validity of the acquisition of these haciendas by the government under Republic Act No. 6657, the Comprehensive Agrarian Reform Law of 1988.

Petitioner Roxas & Co. is a domestic corporation and is the registered owner of three haciendas, namely, Haciendas Palico, Banilad and Caylaway, all located in the Municipality of Nasugbu, Batangas. Hacienda Palico is 1,024 hectares in area and is registered under Transfer Certificate of Title (TCT) No. 985. This land is covered by Tax Declaration Nos. 0465, 0466, 0468, 0470, 0234 and 0354. Hacienda Banilad is 1,050 hectares in area, registered under TCT No. 924 and covered by Tax Declaration Nos. 0236, 0237 and 0390. Hacienda Caylaway is 867.4571 hectares in area and is registered under TCT Nos. T-44662, T-44663, T-44664 and T-44665.

The events of this case occurred during the incumbency of then President Corazon C. Aquino. In February 1986, President Aquino issued Proclamation No. 3 promulgating a Provisional Constitution. As head of the provisional government, the President exercised legislative power "until a legislature is elected and convened under a new Constitution."[1] In the exercise of this legislative power, the President signed on July 22, 1987, Proclamation No. 131 instituting a Comprehensive Agrarian Reform Program and Executive Order No. 229 providing the mechanisms necessary to initially implement the program.

On July 27, 1987, the Congress of the Philippines formally convened and took over legislative power from the President.[2] This Congress passed Republic Act No. 6657, the Comprehensive Agrarian Reform Law (CARL) of 1988. The Act was signed by the President on June 10, 1988 and took effect on June 15, 1988.

Before the law's effectivity, on May 6, 1988, petitioner filed with respondent DAR a voluntary offer to sell Hacienda Caylaway pursuant to the provisions of E.O. No. 229. Haciendas Palico and Banilad were later placed under compulsory acquisition by respondent DAR in accordance with the CARL.

Hacienda Palico

On September 29, 1989, respondent DAR, through respondent Municipal Agrarian Reform Officer (MARO) of Nasugbu, Batangas, sent a notice entitled "Invitation to Parties" to petitioner. The Invitation was addressed to "Jaime Pimentel, Hda. Administrator, Hda. Palico."[3] Therein, the MARO invited petitioner to a conference on October 6, 1989 at the DAR office in Nasugbu to discuss the results of the DAR investigation of Hacienda Palico, which was "scheduled for compulsory acquisition this year under the Comprehensive Agrarian Reform

Program."[4]

On October 25, 1989, the MARO completed three (3) Investigation Reports after investigation and ocular inspection of the Hacienda. In the first Report, the MARO found that 270 hectares under Tax Declaration Nos. 465, 466, 468 and 470 were "flat to undulating (0-8% slope)" and actually occupied and cultivated by 34 tillers of sugarcane.[5] In the second Report, the MARO identified as "flat to undulating" approximately 339 hectares under Tax Declaration No. 0234 which also had several actual occupants and tillers of sugarcane;[6] while in the third Report, the MARO found approximately 75 hectares under Tax Declaration No. 0354 as "flat to undulating" with 33 actual occupants and tillers also of sugarcane.[7]

On October 27, 1989, a "Summary Investigation Report" was submitted and signed jointly by the MARO, representatives of the Barangay Agrarian Reform Committee (BARC) and Land Bank of the Philippines (LBP), and by the Provincial Agrarian Reform Officer (PARO). The Report recommended that 333.0800 hectares of Hacienda Palico be subject to compulsory acquisition at a value of P6,807,622.20.[8] The following day, October 28, 1989, two (2) more Summary Investigation Reports were submitted by the same officers and representatives. They recommended that 270.0876 hectares and 75.3800 hectares be placed under compulsory acquisition at a compensation of P8,109,739.00 and P2,188,195.47, respectively.[9]

On December 12, 1989, respondent DAR through then Department Secretary Miriam D. Santiago sent a "Notice of Acquisition" to petitioner. The Notice was addressed as follows:

> "Roxas y Cia, Limited
> Soriano Bldg., Plaza Cervantes
> Manila, Metro Manila."[10]

Petitioner was informed that 1,023.999 hectares of its land in Hacienda Palico were subject to immediate acquisition and distribution by the government under the CARL; that based on the DAR's valuation criteria, the government was offering compensation of P3.4 million for 333.0800 hectares; that whether this offer was to be accepted or rejected, petitioner was to inform the Bureau of Land Acquisition and Distribution (BLAD) of the DAR; that in case of petitioner's rejection or failure to reply within thirty days, respondent DAR shall conduct summary administrative proceedings with notice to petitioner to determine just compensation for the land; that if petitioner accepts respondent DAR's offer, or upon deposit of the compensation with an accessible bank if it rejects the same, the DAR shall take immediate possession of the land.[11]

Almost two years later, on September 26, 1991, the DAR Regional Director sent to the LBP Land Valuation Manager three (3) separate Memoranda entitled "Request to Open Trust Account." Each Memoranda requested that a trust account representing the valuation of three portions of Hacienda Palico be opened in favor of the petitioner in view of the latter's rejection of its offered value.[12]

Meanwhile in a letter dated May 4, 1993, petitioner applied with the DAR for conversion of Haciendas Palico and Banilad from agricultural to non-agricultural lands under the provisions of the CARL.[13] On July 14, 1993, petitioner sent a letter to the DAR Regional Director reiterating its request for conversion of the two haciendas.[14]

Despite petitioner's application for conversion, respondent DAR proceeded with the acquisition of the two Haciendas. The LBP trust accounts as compensation for Hacienda Palico were replaced by respondent DAR with cash and LBP bonds.[15] On October 22, 1993, from the mother title of TCT No. 985 of the Hacienda, respondent DAR registered Certificate of Land Ownership Award (CLOA) No. 6654. On October 30, 1993, CLOA's were distributed to farmer beneficiaries.[16]

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Hacienda Banilad

On August 23, 1989, respondent DAR, through respondent MARO of Nasugbu, Batangas, sent a notice to petitioner addressed as follows:

> "Mr. Jaime Pimentel
> Hacienda Administrator
> Hacienda Banilad
> Nasugbu, Batangas"[17]

The MARO informed Pimentel that Hacienda Banilad was subject to compulsory acquisition under the CARL; that should petitioner wish to avail of the other schemes such as Voluntary Offer to Sell or Voluntary Land Transfer, respondent DAR was willing to provide assistance thereto.[18]

On September 18, 1989, the MARO sent an "Invitation to Parties" again to Pimentel inviting the latter to attend a conference on September 21, 1989 at the MARO Office in Nasugbu to discuss the results of the MARO's investigation over Hacienda Banilad.[19]

On September 21, 1989, the same day the conference was held, the MARO submitted two (2) Reports. In his first Report, he found that approximately 709 hectares of land under Tax Declaration Nos. 0237 and 0236 were "flat to undulating (0-8% slope)." On this area were discovered 162 actual occupants and tillers of sugarcane.[20] In the second Report, it was found that approximately 235 hectares under Tax Declaration No. 0390 were "flat to undulating," on which were 92 actual occupants and tillers of sugarcane.[21]

The results of these Reports were discussed at the conference. Present in the conference were representatives of the prospective farmer beneficiaries, the BARC, the LBP, and Jaime Pimentel on behalf of the landowner.[22] After the meeting, on the same day, September 21, 1989, a Summary Investigation Report was submitted jointly by the MARO, representatives of the BARC, LBP, and the PARO. They recommended that after ocular inspection of the property, 234.6498 hectares under Tax Declaration No. 0390 be subject to compulsory acquisition and distribution by CLOA.[23] The following day, September 22, 1989, a second Summary Investigation was submitted by the same officers. They recommended that 737.2590 hectares under Tax Declaration Nos. 0236 and 0237 be likewise placed under compulsory acquisition for distribution.[24]

On December 12, 1989, respondent DAR, through the Department Secretary, sent to petitioner two (2) separate "Notices of Acquisition" over Hacienda Banilad. These Notices were sent on the same day as the Notice of Acquisition over Hacienda Palico. Unlike the Notice over Hacienda Palico, however, the Notices over Hacienda Banilad were addressed to:

> "Roxas y Cia. Limited
> 7[th] Floor, Cacho-Gonzales Bldg. 101 Aguirre St., Leg.
> Makati, Metro Manila."[25]

Respondent DAR offered petitioner compensation of P15,108,995.52 for 729.4190 hectares and P4,428,496.00 for 234.6498 hectares.[26]

On September 26, 1991, the DAR Regional Director sent to the LBP Land Valuation Manager a "Request to Open Trust Account" in petitioner's name as compensation for 234.6493 hectares of Hacienda Banilad.[27] A second "Request to Open Trust Account" was sent on November 18, 1991 over 723.4130 hectares of said Hacienda.[28]

On December 18, 1991, the LBP certified that the amounts of P4,428,496.40 and P21,234,468.78 in cash and LBP bonds had been earmarked as compensation for petitioner's land in Hacienda Banilad.[29]

On May 4, 1993, petitioner applied for conversion of both Haciendas Palico and Banilad.

Hacienda Caylaway

Hacienda Caylaway was voluntarily offered for sale to the government on May 6, 1988 before the effectivity of the CARL. The Hacienda has a total area of 867.4571 hectares and is covered by four (4) titles--TCT Nos. T-44662, T-44663, T-44664 and T-44665. On January 12, 1989, respondent DAR, through the Regional Director for Region IV, sent to petitioner two (2) separate Resolutions accepting petitioner's voluntary offer to sell Hacienda Caylaway, particularly TCT Nos. T-44664 and T-44663.[30] The Resolutions were addressed to:

> "Roxas & Company, Inc.
> 7[th] Flr. Cacho- Gonzales Bldg.
> Aguirre, Legaspi Village
> Makati, M. M."[31]

On September 4, 1990, the DAR Regional Director issued two separate Memoranda to the LBP Regional Manager requesting for the valuation of the land under TCT Nos. T-44664 and T-44663.[32] On the same day, respondent DAR, through the Regional Director, sent to petitioner a "Notice of Acquisition" over 241.6777 hectares under TCT No. T-44664 and 533.8180 hectares under TCT No. T-44663.[33] Like the Resolutions of Acceptance, the Notice of Acquisition was addressed to petitioner at its office in Makati, Metro Manila.

Nevertheless, on August 6, 1992, petitioner, through its President, Eduardo J. Roxas, sent a letter to the Secretary of respondent DAR withdrawing its VOS of Hacienda Caylaway. The Sangguniang Bayan of Nasugbu, Batangas allegedly authorized the reclassification of Hacienda Caylaway from agricultural to non-agricultural. As a result, petitioner informed respondent DAR that it was applying for conversion of Hacienda Caylaway from agricultural to other uses.[34]

In a letter dated September 28, 1992, respondent DAR Secretary informed petitioner that a reclassification of the land would not exempt it from agrarian reform. Respondent Secretary also denied petitioner's withdrawal of the VOS on the ground that withdrawal could only be based on specific grounds such as unsuitability of the soil for agriculture, or if the slope of the land is over 18 degrees and that the land is undeveloped.[35]

Despite the denial of the VOS withdrawal of Hacienda Caylaway, on May 11, 1993, petitioner filed its application for conversion of both Haciendas Palico and Banilad.[36] On July 14, 1993, petitioner, through its President, Eduardo Roxas, reiterated its request to withdraw the VOS over Hacienda Caylaway in light of the following:

> "1) Certification issued by Conrado I. Gonzales, Officer-in-Charge, Department of Agriculture, Region 4, 4[th] Floor, ATI (BA) Bldg., Diliman, Quezon City dated March 1, 1993 stating that the lands subject of referenced titles "are not feasible and economically sound for further agricultural development."
>
> 2) Resolution No. 19 of the Sangguniang Bayan of Nasugbu, Batangas approving the Zoning Ordinance reclassifying areas covered by the referenced titles to non-agricultural which was enacted after extensive consultation with government agencies, including [the Department of Agrarian Reform], and the requisite public hearings.
>
> 3) Resolution No. 106 of the Sangguniang Panlalawigan of Batangas dated March 8, 1993 approving the Zoning Ordinance enacted by the Municipality of Nasugbu.
>
> 4) Letter dated December 15, 1992 issued by Reynaldo U. Garcia of the Municipal Planning & Development, Coordinator and Deputized Zoning Administrator addressed to Mrs. Alicia P. Logarta advising that the Municipality of Nasugbu, Batangas has no objection to the conversion of the lands subject of referenced titles to non-agricultural."[37]

On August 24, 1993, petitioner instituted Case No. N-0017-96-46 (BA) with respondent DAR Adjudication Board (DARAB) praying for the cancellation of the CLOA's issued by respondent DAR in the name of several persons. Petitioner alleged that the Municipality of Nasugbu, where the haciendas are located, had been declared a tourist zone, that the land is not suitable for agricultural production, and that the Sangguniang Bayan of Nasugbu had reclassified the land to non-agricultural.

In a Resolution dated October 14, 1993, respondent DARAB held that the case involved the prejudicial question of whether the property was subject to agrarian reform, hence, this question should be submitted to the Office of the Secretary of Agrarian Reform for determination.[38]

On October 29, 1993, petitioner filed with the Court of Appeals CA-G.R. SP No. 32484. It questioned the expropriation of its properties under the CARL and the denial of due process in the acquisition of its landholdings.

Meanwhile, the petition for conversion of the three haciendas was denied by the MARO on November 8, 1993.

Petitioner's petition was dismissed by the Court of Appeals on April 28, 1994.[39] Petitioner moved for reconsideration but the motion was denied on January 17, 1997 by respondent court.[40]

Hence, this recourse. Petitioner assigns the following errors:

> "A. RESPONDENT COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT PETITIONER'S CAUSE OF ACTION IS PREMATURE FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES IN VIEW OF THE PATENT ILLEGALITY OF THE RESPONDENTS' ACTS, THE IRREPARABLE DAMAGE CAUSED BY SAID ILLEGAL ACTS, AND THE ABSENCE OF A PLAIN, SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW—ALL OF WHICH ARE EXCEPTIONS TO THE SAID DOCTRINE.
>
> B. RESPONDENT COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT PETITIONER'S LANDHOLDINGS ARE SUBJECT TO COVERAGE UNDER THE COMPREHENSIVE AGRARIAN REFORM LAW, IN VIEW OF THE UNDISPUTED FACT THAT PETITIONER'S LANDHOLDINGS HAVE BEEN CONVERTED TO NON-AGRICULTURAL USES BY PRESIDENTIAL PROCLAMATION NO. 1520 WHICH DECLARED THE MUNICIPALITY OF NASUGBU, BATANGAS AS A TOURIST ZONE, AND THE ZONING ORDINANCE OF THE MUNICIPALITY OF NASUGBU RE-CLASSIFYING CERTAIN PORTIONS OF PETITIONER'S LANDHOLDINGS AS NON-AGRICULTURAL, BOTH OF WHICH PLACE SAID LANDHOLDINGS OUTSIDE THE SCOPE OF AGRARIAN REFORM, OR AT THE VERY LEAST ENTITLE PETITIONER TO APPLY FOR CONVERSION AS CONCEDED BY RESPONDENT DAR.
>
> C. RESPONDENT COURT OF APPEALS GRAVELY ERRED WHEN IT FAILED TO DECLARE THE PROCEEDINGS BEFORE RESPONDENT DAR VOID FOR FAILURE TO OBSERVE DUE PROCESS, CONSIDERING THAT RESPONDENTS BLATANTLY DISREGARDED THE PROCEDURE FOR THE ACQUISITION OF PRIVATE LANDS UNDER R.A. 6657, MORE PARTICULARLY, IN FAILING TO GIVE DUE NOTICE TO THE PETITIONER AND TO PROPERLY IDENTIFY THE SPECIFIC AREAS SOUGHT TO BE ACQUIRED.
>
> D. RESPONDENT COURT OF APPEALS GRAVELY ERRED WHEN IT FAILED TO RECOGNIZE THAT PETITIONER WAS BRAZENLY AND ILLEGALLY DEPRIVED OF ITS PROPERTY WITHOUT JUST COMPENSATION, CONSIDERING THAT PETITIONER WAS NOT PAID JUST COMPENSATION BEFORE IT WAS UNCEREMONIOUSLY STRIPPED OF ITS LANDHOLDINGS THROUGH THE ISSUANCE OF CLOA'S TO ALLEGED FARMER BENEFICIARIES, IN VIOLATION OF R.A. 6657.[41]

The assigned errors involve three (3) principal issues: (1) whether this Court can take cognizance of this petition despite petitioner's failure to exhaust administrative remedies; (2) whether the acquisition proceedings over the

three haciendas were valid and in accordance with law; and (3) assuming the haciendas may be reclassified from agricultural to non-agricultural, whether this court has the power to rule on this issue.

[I. Exhaustion of Administrative Remedies.]

In its first assigned error, petitioner claims that respondent Court of Appeals gravely erred in finding that petitioner failed to exhaust administrative remedies. As a general rule, before a party may be allowed to invoke the jurisdiction of the courts of justice, he is expected to have exhausted all means of administrative redress. This is not absolute, however. There are instances when judicial action may be resorted to immediately. Among these exceptions are: (1) when the question raised is purely legal; (2) when the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) when there is urgent need for judicial intervention; (5) when the respondent acted in disregard of due process; (6) when the respondent is a department secretary whose acts, as an alter ego of the President, bear the implied or assumed approval of the latter; (7) when irreparable damage will be suffered; (8) when there is no other plain, speedy and adequate remedy; (9) when strong public interest is involved; (10) when the subject of the controversy is private land; and (11) in quo warranto proceedings.[42]

Petitioner rightly sought immediate redress in the courts. There was a violation of its rights and to require it to exhaust administrative remedies before the DAR itself was not a plain, speedy and adequate remedy.

Respondent DAR issued Certificates of Land Ownership Award (CLOA's) to farmer beneficiaries over portions of petitioner's land without just compensation to petitioner. A Certificate of Land Ownership Award (CLOA) is evidence of ownership of land by a beneficiary under R.A. 6657, the Comprehensive Agrarian Reform Law of 1988.[43] Before this may be awarded to a farmer beneficiary, the land must first be acquired by the State from the landowner and ownership transferred to the former. The transfer of possession and ownership of the land to the government are conditioned upon the receipt by the landowner of the corresponding payment or deposit by the DAR of the compensation with an accessible bank. Until then, title remains with the landowner.[44] There was no receipt by petitioner of any compensation for any of the lands acquired by the government.

The kind of compensation to be paid the landowner is also specific. The law provides that the deposit must be made only in "cash" or "LBP bonds."[45] Respondent DAR's opening of trust account deposits in petitioner's name with the Land Bank of the Philippines does not constitute payment under the law. Trust account deposits are not cash or LBP bonds. The replacement of the trust account with cash or LBP bonds did not ipso facto cure the lack of compensation; for essentially, the determination of this compensation was marred by lack of due process. In fact, in the entire acquisition proceedings, respondent DAR disregarded the basic requirements of administrative due process. Under these circumstances, the issuance of the CLOA's to farmer beneficiaries necessitated immediate judicial action on the part of the petitioner.

II. The Validity of the Acquisition Proceedings Over the Haciendas.

Petititioner's allegation of lack of due process goes into the validity of the acquisition proceedings themselves. Before we rule on this matter, however, there is need to lay down the procedure in the acquisition of private lands under the provisions of the law.

A. Modes of Acquisition of Land under R. A. 6657

Republic Act No. 6657, the Comprehensive Agrarian Reform Law of 1988 (CARL), provides for two (2) modes of acquisition of private land: compulsory and voluntary. The procedure for the compulsory acquisition of private lands is set forth in Section 16 of R.A. 6657, viz:

> "Sec. 16. Procedure for Acquisition of Private Lands. --. For purposes of acquisition of private lands, the following procedures shall be followed:

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> a) After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Sections 17, 18, and other pertinent provisions hereof.
>
> b) Within thirty (30) days from the date of receipt of written notice by personal delivery or registered mail, the landowner, his administrator or representative shall inform the DAR of his acceptance or rejection of the offer.
>
> c) If the landowner accepts the offer of the DAR, the LBP shall pay the landowner the purchase price of the land within thirty (30) days after he executes and delivers a deed of transfer in favor of the Government and surrenders the Certificate of Title and other muniments of title.
>
> d) In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation for the land requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from receipt of the notice. After the expiration of the above period, the matter is deemed submitted for decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision.
>
> e) Upon receipt by the landowner of the corresponding payment, or, in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries.
>
> f) Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation."

In the compulsory acquisition of private lands, the landholding, the landowners and the farmer beneficiaries must first be identified. After identification, the DAR shall send a Notice of Acquisition to the landowner, by personal delivery or registered mail, and post it in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Within thirty days from receipt of the Notice of Acquisition, the landowner, his administrator or representative shall inform the DAR of his acceptance or rejection of the offer. If the landowner accepts, he executes and delivers a deed of transfer in favor of the government and surrenders the certificate of title. Within thirty days from the execution of the deed of transfer, the Land Bank of the Philippines (LBP) pays the owner the purchase price. If the landowner rejects the DAR's offer or fails to make a reply, the DAR conducts summary administrative proceedings to determine just compensation for the land. The landowner, the LBP representative and other interested parties may submit evidence on just compensation within fifteen days from notice. Within thirty days from submission, the DAR shall decide the case and inform the owner of its decision and the amount of just compensation. Upon receipt by the owner of the corresponding payment, or, in case of rejection or lack of response from the latter, the DAR shall deposit the compensation in cash or in LBP bonds with an accessible bank. The DAR shall immediately take possession of the land and cause the issuance of a transfer certificate of title in the name of the Republic of the Philippines. The land shall then be redistributed to the farmer beneficiaries. Any party may question the decision of the DAR in the regular courts for final determination of just compensation.

The DAR has made compulsory acquisition the priority mode of land acquisition to hasten the implementation of the Comprehensive Agrarian Reform Program (CARP).[46] Under Section 16 of the CARL, the first step in compulsory acquisition is the identification of the land, the landowners and the beneficiaries. However, the law is silent on how the identification process must be made. To fill in this gap, the DAR issued on July 26, 1989

Administrative Order No. 12, Series of 1989, which set the operating procedure in the identification of such lands. The procedure is as follows:

> "II. OPERATING PROCEDURE
> A. The Municipal Agrarian Reform Officer, with the assistance of the pertinent Barangay Agrarian Reform Committee (BARC), shall:
>
> - Update the masterlist of all agricultural lands covered under the CARP in his area of responsibility. The masterlist shall include such information as required under the attached CARP Masterlist Form which shall include the name of the landowner, landholding area, TCT/OCT number, and tax declaration number.
>
> - Prepare a Compulsory Acquisition Case Folder (CACF) for each title (OCT/TCT) or landholding covered under Phase I and II of the CARP except those for which the landowners have already filed applications to avail of other modes of land acquisition. A case folder shall contain the following duly accomplished forms:
> a) CARP CA Form 1--MARO Investigation Report
> b) CARP CA Form 2-- Summary Investigation Report of Findings and Evaluation
> c) CARP CA Form 3--Applicant's Information Sheet
> d) CARP CA Form 4--Beneficiaries Undertaking
> e) CARP CA Form 5--Transmittal Report to the PARO

The MARO/ BARC shall certify that all information contained in the above-mentioned forms have been examined and verified by him and that the same are true and correct.

- Send a Notice of Coverage and a letter of invitation to a conference/ meeting to the landowner covered by the Compulsory Case Acquisition Folder. Invitations to the said conference/ meeting shall also be sent to the prospective farmer-beneficiaries, the BARC representative(s), the Land Bank of the Philippines (LBP) representative, and other interested parties to discuss the inputs to the valuation of the property. He shall discuss the MARO/ BARC investigation report and solicit the views, objection, agreements or suggestions of the participants thereon. The landowner shall also be asked to indicate his retention area. The minutes of the meeting shall be signed by all participants in the conference and shall form an integral part of the CACF.

- Submit all completed case folders to the Provincial Agrarian Reform Officer (PARO).

B. The PARO shall:

- Ensure that the individual case folders are forwarded to him by his MAROs.

- Immediately upon receipt of a case folder, compute the valuation of the land in accordance with A.O. No. 6, Series of 1988.[47] The valuation worksheet and the related CACF valuation forms shall be duly certified correct by the PARO and all the personnel who participated in the accomplishment of these forms.

- In all cases, the PARO may validate the report of the MARO through ocular inspection and verification of the property. This ocular inspection and verification shall be mandatory when the computed value exceeds 500,000 per estate.

- Upon determination of the valuation, forward the case folder, together with the duly accomplished valuation forms and his recommendations, to the Central Office. The LBP representative and the MARO concerned shall be furnished a copy each of his report.

C. DAR Central Office, specifically through the Bureau of Land Acquisition and Distribution (BLAD), shall:

- Within three days from receipt of the case folder from the PARO, review, evaluate and determine the final land valuation of the property covered by the case folder. A summary review and evaluation report shall be prepared

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and duly certified by the BLAD Director and the personnel directly participating in the review and final valuation.

- Prepare, for the signature of the Secretary or her duly authorized representative, a Notice of Acquisition (CARP CA Form 8) for the subject property. Serve the Notice to the landowner personally or through registered mail within three days from its approval. The Notice shall include, among others, the area subject of compulsory acquisition, and the amount of just compensation offered by DAR.

- Should the landowner accept the DAR's offered value, the BLAD shall prepare and submit to the Secretary for approval the Order of Acquisition. However, in case of rejection or non-reply, the DAR Adjudication Board (DARAB) shall conduct a summary administrative hearing to determine just compensation, in accordance with the procedures provided under Administrative Order No. 13, Series of 1989. Immediately upon receipt of the DARAB's decision on just compensation, the BLAD shall prepare and submit to the Secretary for approval the required Order of Acquisition.

- Upon the landowner's receipt of payment, in case of acceptance, or upon deposit of payment in the designated bank, in case of rejection or non-response, the Secretary shall immediately direct the pertinent Register of Deeds to issue the corresponding Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. Once the property is transferred, the DAR, through the PARO, shall take possession of the land for redistribution to qualified beneficiaries."

Administrative Order No. 12, Series of 1989 requires that the Municipal Agrarian Reform Officer (MARO) keep an updated master list of all agricultural lands under the CARP in his area of responsibility containing all the required information. The MARO prepares a Compulsory Acquisition Case Folder (CACF) for each title covered by CARP. The MARO then sends the landowner a "Notice of Coverage" and a "letter of invitation" to a "conference/ meeting" over the land covered by the CACF. He also sends invitations to the prospective farmer-beneficiaries, the representatives of the Barangay Agrarian Reform Committee (BARC), the Land Bank of the Philippines (LBP) and other interested parties to discuss the inputs to the valuation of the property and solicit views, suggestions, objections or agreements of the parties. At the meeting, the landowner is asked to indicate his retention area.

The MARO shall make a report of the case to the Provincial Agrarian Reform Officer (PARO) who shall complete the valuation of the land. Ocular inspection and verification of the property by the PARO shall be mandatory when the computed value of the estate exceeds P500,000.00. Upon determination of the valuation, the PARO shall forward all papers together with his recommendation to the Central Office of the DAR. The DAR Central Office, specifically, the Bureau of Land Acquisition and Distribution (BLAD), shall review, evaluate and determine the final land valuation of the property. The BLAD shall prepare, on the signature of the Secretary or his duly authorized representative, a Notice of Acquisition for the subject property.[48] From this point, the provisions of Section 16 of R.A. 6657 then apply.[49]

For a valid implementation of the CAR Program, two notices are required: (1) the Notice of Coverage and letter of invitation to a preliminary conference sent to the landowner, the representatives of the BARC, LBP, farmer beneficiaries and other interested parties pursuant to DAR A. O. No. 12, Series of 1989; and (2) the Notice of Acquisition sent to the landowner under Section 16 of the CARL.

The importance of the first notice, i.e., the Notice of Coverage and the letter of invitation to the conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process. The implementation of the CARL is an exercise of the State's police power and the power of eminent domain. To the extent that the CARL prescribes retention limits to the landowners, there is an exercise of police power for the regulation of private property in accordance with the Constitution.[50] But where,

to carry out such regulation, the owners are deprived of lands they own in excess of the maximum area allowed, there is also a taking under the power of eminent domain. The taking contemplated is not a mere limitation of the use of the land. What is required is the surrender of the title to and physical possession of the said excess and all beneficial rights accruing to the owner in favor of the farmer beneficiary.[51] The Bill of Rights provides that "[n]o person shall be deprived of life, liberty or property without due process of law."[52] The CARL was not intended to take away property without due process of law.[53] The exercise of the power of eminent domain requires that due process be observed in the taking of private property.

DAR A. O. No. 12, Series of 1989, from whence the Notice of Coverage first sprung, was amended in 1990 by DAR A.O. No. 9, Series of 1990 and in 1993 by DAR A.O. No. 1, Series of 1993. The Notice of Coverage and letter of invitation to the conference meeting were expanded and amplified in said amendments.

DAR A. O. No. 9, Series of 1990 entitled "Revised Rules Governing the Acquisition of Agricultural Lands Subject of Voluntary Offer to Sell and Compulsory Acquisition Pursuant to R. A. 6657," requires that:

> "B. MARO
>
> - Receives the duly accomplished CARP Form Nos. 1 & 1.1 including supporting documents.
>
> - Gathers basic ownership documents listed under 1.a or 1.b above and prepares corresponding VOCF/ CACF by landowner/ landholding.
>
> - Notifies/ invites the landowner and representatives of the LBP, DENR, BARC and prospective beneficiaries of the schedule of ocular inspection of the property at least one week in advance.
>
> - MARO/ LAND BANK FIELD OFFICE/ BARC
> a) Identify the land and landowner, and determine the suitability for agriculture and productivity of the land and jointly prepare Field Investigation Report (CARP Form No. 2), including the Land Use Map of the property.
> b) Interview applicants and assist them in the preparation of the Application For Potential CARP Beneficiary (CARP Form No. 3).
> c) Screen prospective farmer-beneficiaries and for those found qualified, cause the signing of the respective Application to Purchase and Farmer's Undertaking (CARP Form No. 4).
> d) Complete the Field Investigation Report based on the result of the ocular inspection/ investigation of the property and documents submitted. See to it that Field Investigation Report is duly accomplished and signed by all concerned.
>
> **- MARO**
>
> a) Assists the DENR Survey Party in the conduct of a boundary/ subdivision survey delineating areas covered by OLT, retention, subject of VOS, CA (by phases, if possible), infrastructures, etc., whichever is applicable.
> b) Sends Notice of Coverage (CARP Form No. 5) to landowner concerned or his duly authorized representative inviting him for a conference.
> c) Sends Invitation Letter (CARP Form No. 6) for a conference/ public hearing to prospective farmer-beneficiaries, landowner, representatives of BARC, LBP, DENR, DA, NGO's, farmers' organizations and other interested parties to discuss the following matters:
> Result of Field Investigation
> Inputs to valuation
> Issues raised
> Comments/ recommendations by all parties concerned.

d) Prepares Summary of Minutes of the conference/ public hearing to be guided by CARP Form No. 7.

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e) Forwards the completed VOCF/CACF to the Provincial Agrarian Reform Office (PARO) using CARP Form No. 8 (Transmittal Memo to PARO).

x x x."

DAR A. O. No. 9, Series of 1990 lays down the rules on both Voluntary Offer to Sell (VOS) and Compulsory Acquisition (CA) transactions involving lands enumerated under Section 7 of the CARL.[54] In both VOS and CA transactions, the MARO prepares the Voluntary Offer to Sell Case Folder (VOCF) and the Compulsory Acquisition Case Folder (CACF), as the case may be, over a particular landholding. The MARO notifies the landowner as well as representatives of the LBP, BARC and prospective beneficiaries of the date of the ocular inspection of the property at least one week before the scheduled date and invites them to attend the same. The MARO, LBP or BARC conducts the ocular inspection and investigation by identifying the land and landowner, determining the suitability of the land for agriculture and productivity, interviewing and screening prospective farmer beneficiaries. Based on its investigation, the MARO, LBP or BARC prepares the Field Investigation Report which shall be signed by all parties concerned. In addition to the field investigation, a boundary or subdivision survey of the land may also be conducted by a Survey Party of the Department of Environment and Natural Resources (DENR) to be assisted by the MARO.[55] This survey shall delineate the areas covered by Operation Land Transfer (OLT), areas retained by the landowner, areas with infrastructure, and the areas subject to VOS and CA. After the survey and field investigation, the MARO sends a "Notice of Coverage" to the landowner or his duly authorized representative inviting him to a conference or public hearing with the farmer beneficiaries, representatives of the BARC, LBP, DENR, Department of Agriculture (DA), non-government organizations, farmer's organizations and other interested parties. At the public hearing, the parties shall discuss the results of the field investigation, issues that may be raised in relation thereto, inputs to the valuation of the subject landholding, and other comments and recommendations by all parties concerned. The Minutes of the conference/ public hearing shall form part of the VOCF or CACF which files shall be forwarded by the MARO to the PARO. The PARO reviews, evaluates and validates the Field Investigation Report and other documents in the VOCF/ CACF. He then forwards the records to the RARO for another review.

DAR A. O. No. 9, Series of 1990 was amended by DAR A. O. No. 1, Series of 1993. DAR A. O. No. 1, Series of 1993 provided, among others, that:

"IV. OPERATING PROCEDURES:

"Steps

Responsible

Activity

Forms/

Agency/Unit

Document

(Requirements)

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A. Identification and Documentation

x x x

5

DARMO

Issues Notice of Coverage to LO by personal delivery with proof of service, or by registered mail with return card, informing him that his property is now under CARP coverage and for LO to select his retention area, if he desires to avail of his right of retention; and at the same time invites him to join the field investigation to be conducted on his property which should be scheduled at least two weeks in advance of said notice.

CARP Form No.2

A copy of said Notice shall be posted for at least one week on the bulletin board of the municipal and barangay halls where the property is located. LGU office concerned notifies DAR about compliance with posting requirement thru return indorsement on CARP Form No. 17.

CARP Form No.17

6

DARMO

Sends notice to the LBP, BARC, DENR representatives and prospective ARBs of the schedule of the field investigation to be conducted on the subject property.

CARP Form No.3

7

DARMO

With the participation of BARC the LO, representatives of LBP the LBP, BARC, DENR DENR and prospective ARBs, Local Office conducts the investigation on subject property to identify the landholding, determines its suitability and productivity; and jointly prepares the Field Investigation Report (FIR) and Land Use Map. However, the field investigation shall proceed even if the LO, the representatives of the DENR and prospective ARBs are not available provided, they were given due notice of the time and date of the investigation to be conducted. Similarly, if the LBP representative is not available or could not come on the scheduled date, the field investigation shall also be conducted, after which the duly accomplished Part I of

CARP Form No. 4 shall be forwarded to the LBP representative for validation. If he agrees to the ocular inspection report of DAR, he signs the FIR (Part I) and accomplishes Part II thereof.

CARP Form No.4

Land Use Map

In the event that there is a difference or variance between the findings of the DAR and the LBP as to the propriety of covering the land under CARP, whether in whole or in part, on the issue of suitability to agriculture, degree of development or slope, and on issues affecting idle lands, the conflict shall be resolved by a composite team of DAR, LBP, DENR and DA which shall jointly conduct further investigation thereon. The team shall submit its report of findings which shall be binding to both DAR and LBP, pursuant to Joint Memorandum Circular of the DAR, LBP, DENR and DA dated 27 January 1992.

8

DARMO

BARC

Screens prospective ARBS and causes the signing of the Application of Purchase and Farmers' Undertaking (APFU)

CARP Form No. 5

9

DARMO

Furnishes a copy of the duly accomplished FIR to the landowner by personal delivery with proof of service or registered mail with return card and posts a copy thereof for at least one week on the bulletin board of the municipal and barangay halls where the property is located.

CARP Form No. 4

LGU office concerned Notifies DAR about compliance with posting requirement thru return endorsement on CARP Form No. 17.

CARP Form No.17

B. Land Survey

10 DARMO

Conducts perimeter or And/or segregation survey DENR delineating areas covered Local Office by OLT, "uncarpable areas such as 18% slope and above, unproductive/ unsuitable to agriculture, retention, infrastructure. In case of segregation or subdivision survey, the plan shall be approved by DENR-LMS.

Perimeter or Segregation Survey Plan

C. Review and Completion of Documents.

11 DARMO Forwards VOCF/CACF CARP to DARPO Form No.6

x x x."

DAR A. O. No. 1, Series of 1993, modified the identification process and increased the number of government agencies involved in the identification and delineation of the land subject to acquisition.[56] This time, the Notice of Coverage is sent to the landowner before the conduct of the field investigation and the sending must comply with specific requirements. Representatives of the DAR Municipal Office (DARMO) must send the Notice of Coverage to the landowner by "personal delivery with proof of service, or by registered mail with return card," informing him that his property is under CARP coverage and that if he desires to avail of his right of retention, he may choose which area he shall retain. The Notice of Coverage shall also invite the landowner to attend the field investigation to be scheduled at least two weeks from notice. The field investigation is for the purpose of identifying the landholding and determining its suitability for agriculture and its productivity. A copy of the Notice of Coverage shall be posted for at least one week on the bulletin board of the municipal and barangay halls where the property is located. The date of the field investigation shall also be sent by the DAR Municipal Office to representatives of the LBP, BARC, DENR and prospective farmer beneficiaries. The field investigation shall be conducted on the date set with the participation of the landowner and the various representatives. If the landowner and other representatives are absent, the field investigation shall proceed, provided they were duly notified thereof. Should there be a variance between the findings of the DAR and the LBP as to whether the land be placed under agrarian reform, the land's suitability to agriculture, the degree or development of the slope, etc., the conflict shall be resolved by a composite team of the DAR, LBP, DENR and DA which shall jointly conduct further investigation. The team's findings shall be binding on both DAR and LBP. After the field investigation, the DAR Municipal Office shall prepare the Field Investigation Report and Land Use Map, a copy of which shall

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be furnished the landowner "by personal delivery with proof of service or registered mail with return card." Another copy of the Report and Map shall likewise be posted for at least one week in the municipal or barangay halls where the property is located.

Clearly then, the notice requirements under the CARL are not confined to the Notice of Acquisition set forth in Section 16 of the law. They also include the Notice of Coverage first laid down in DAR A. O. No. 12, Series of 1989 and subsequently amended in DAR A. O. No. 9, Series of 1990 and DAR A. O. No. 1, Series of 1993. This Notice of Coverage does not merely notify the landowner that his property shall be placed under CARP and that he is entitled to exercise his retention right; it also notifies him, pursuant to DAR A. O. No. 9, Series of 1990, that a public hearing shall be conducted where he and representatives of the concerned sectors of society may attend to discuss the results of the field investigation, the land valuation and other pertinent matters. Under DAR A. O. No. 1, Series of 1993, the Notice of Coverage also informs the landowner that a field investigation of his landholding shall be conducted where he and the other representatives may be present.

B. The Compulsory Acquisition of Haciendas Palico and Banilad

In the case at bar, respondent DAR claims that it, through MARO Leopoldo C. Lejano, sent a letter of invitation entitled "Invitation to Parties" dated September 29, 1989 to petitioner corporation, through Jaime Pimentel, the administrator of Hacienda Palico.[57] The invitation was received on the same day it was sent as indicated by a signature and the date received at the bottom left corner of said invitation. With regard to Hacienda Banilad, respondent DAR claims that Jaime Pimentel, administrator also of Hacienda Banilad, was notified and sent an invitation to the conference. Pimentel actually attended the conference on September 21, 1989 and signed the Minutes of the meeting on behalf of petitioner corporation.[58] The Minutes was also signed by the representatives of the BARC, the LBP and farmer beneficiaries.[59] No letter of invitation was sent or conference meeting held with respect to Hacienda Caylaway because it was subject to a Voluntary Offer to Sell to respondent DAR.[60]

When respondent DAR, through the Municipal Agrarian Reform Officer (MARO), sent to the various parties the Notice of Coverage and invitation to the conference, DAR A. O. No. 12, Series of 1989 was already in effect more than a month earlier. The Operating Procedure in DAR Administrative Order No. 12 does not specify how notices or letters of invitation shall be sent to the landowner, the representatives of the BARC, the LBP, the farmer beneficiaries and other interested parties. The procedure in the sending of these notices is important to comply with the requisites of due process especially when the owner, as in this case, is a juridical entity. Petitioner is a domestic corporation,[61] and therefore, has a personality separate and distinct from its shareholders, officers and employees.

The Notice of Acquisition in Section 16 of the CARL is required to be sent to the landowner by "personal delivery or registered mail." Whether the landowner be a natural or juridical person to whose address the Notice may be sent by personal delivery or registered mail, the law does not distinguish. The DAR Administrative Orders also do not distinguish. In the proceedings before the DAR, the distinction between natural and juridical persons in the sending of notices may be found in the Revised Rules of Procedure of the DAR Adjudication Board (DARAB). Service of pleadings before the DARAB is governed by Section 6, Rule V of the DARAB Revised Rules of Procedure. Notices and pleadings are served on private domestic corporations or partnerships in the following manner:

> "Sec. 6. Service upon Private Domestic Corporation or Partnership.-- If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent, or any of its directors or partners."

Similarly, the Revised Rules of Court of the Philippines, in Section 13, Rule 14 provides:

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> "Sec. 13. Service upon private domestic corporation or partnership.--If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent, or any of its directors."

Summonses, pleadings and notices in cases against a private domestic corporation before the DARAB and the regular courts are served on the president, manager, secretary, cashier, agent or any of its directors. These persons are those through whom the private domestic corporation or partnership is capable of action.[62]

Jaime Pimentel is not the president, manager, secretary, cashier or director of petitioner corporation. Is he, as administrator of the two Haciendas, considered an agent of the corporation?

The purpose of all rules for service of process on a corporation is to make it reasonably certain that the corporation will receive prompt and proper notice in an action against it.[63] Service must be made on a representative so integrated with the corporation as to make it a priori supposable that he will realize his responsibilities and know what he should do with any legal papers served on him,[64] and bring home to the corporation notice of the filing of the action.[65] Petitioner's evidence does not show the official duties of Jaime Pimentel as administrator of petitioner's haciendas. The evidence does not indicate whether Pimentel's duties is so integrated with the corporation that he would immediately realize his responsibilities and know what he should do with any legal papers served on him. At the time the notices were sent and the preliminary conference conducted, petitioner's principal place of business was listed in respondent DAR's records as "Soriano Bldg., Plaza Cervantes, Manila,"[66] and "7[th] Flr. Cacho-Gonzales Bldg., 101 Aguirre St., Makati, Metro Manila."[67] Pimentel did not hold office at the principal place of business of petitioner. Neither did he exercise his functions in Plaza Cervantes, Manila nor in Cacho-Gonzales Bldg., Makati, Metro Manila. He performed his official functions and actually resided in the haciendas in Nasugbu, Batangas, a place over two hundred kilometers away from Metro Manila.

Curiously, respondent DAR had information of the address of petitioner's principal place of business. The Notices of Acquisition over Haciendas Palico and Banilad were addressed to petitioner at its offices in Manila and Makati. These Notices were sent barely three to four months after Pimentel was notified of the preliminary conference. [68] Why respondent DAR chose to notify Pimentel instead of the officers of the corporation was not explained by the said respondent.

Nevertheless, assuming that Pimentel was an agent of petitioner corporation, and the notices and letters of invitation were validly served on petitioner through him, there is no showing that Pimentel himself was duly authorized to attend the conference meeting with the MARO, BARC and LBP representatives and farmer beneficiaries for purposes of compulsory acquisition of petitioner's landholdings. Even respondent DAR's evidence does not indicate this authority. On the contrary, petitioner claims that it had no knowledge of the letter-invitation, hence, could not have given Pimentel the authority to bind it to whatever matters were discussed or agreed upon by the parties at the preliminary conference or public hearing. Notably, one year after Pimentel was informed of the preliminary conference, DAR A.O. No. 9, Series of 1990 was issued and this required that the Notice of Coverage must be sent "to the landowner concerned or his duly authorized representative."[69]

Assuming further that petitioner was duly notified of the CARP coverage of its haciendas, the areas found actually subject to CARP were not properly identified before they were taken over by respondent DAR. Respondents insist that the lands were identified because they are all registered property and the technical description in their respective titles specifies their metes and bounds. Respondents admit at the same time, however, that not all areas in the haciendas were placed under the comprehensive agrarian reform program invariably by reason of elevation or character or use of the land.[70]

The acquisition of the landholdings did not cover the entire expanse of the two haciendas, but only portions thereof. Hacienda Palico has an area of 1,024 hectares and only 688.7576 hectares were targetted for acquisition. Hacienda Banilad has an area of 1,050 hectares but only 964.0688 hectares were subject to CARP. The haciendas are not entirely agricultural lands. In fact, the various tax declarations over the haciendas describe the landholdings as "sugarland," and "forest, sugarland, pasture land, horticulture and woodland."[71]

Under Section 16 of the CARL, the sending of the Notice of Acquisition specifically requires that the land subject to land reform be first identified. The two haciendas in the instant case cover vast tracts of land. Before Notices of Acquisition were sent to petitioner, however, the exact areas of the landholdings were not properly segregated and delineated. Upon receipt of this notice, therefore, petitioner corporation had no idea which portions of its estate were subject to compulsory acquisition, which portions it could rightfully retain, whether these retained portions were compact or contiguous, and which portions were excluded from CARP coverage. Even respondent DAR's evidence does not show that petitioner, through its duly authorized representative, was notified of any ocular inspection and investigation that was to be conducted by respondent DAR. Neither is there proof that petitioner was given the opportunity to at least choose and identify its retention area in those portions to be acquired compulsorily. The right of retention and how this right is exercised, is guaranteed in Section 6 of the CARL, viz:

> "Section 6. Retention Limits.--x x x.
>
> The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided, however, That in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

Under the law, a landowner may retain not more than five hectares out of the total area of his agricultural land subject to CARP. The right to choose the area to be retained, which shall be compact or contiguous, pertains to the landowner. If the area chosen for retention is tenanted, the tenant shall have the option to choose whether to remain on the portion or be a beneficiary in the same or another agricultural land with similar or comparable features.

C. The Voluntary Acquisition of Hacienda Caylaway

Petitioner was also left in the dark with respect to Hacienda Caylaway, which was the subject of a Voluntary Offer to Sell (VOS). The VOS in the instant case was made on May 6, 1988,[72] before the effectivity of R.A. 6657 on June 15, 1988. VOS transactions were first governed by DAR Administrative Order No. 19, series of 1989,[73] and under this order, all VOS filed before June 15, 1988 shall be heard and processed in accordance with the procedure provided for in Executive Order No. 229, thus:

> "III. All VOS transactions which are now pending before the DAR and for which no payment has been made shall be subject to the notice and hearing requirements provided in Administrative Order No. 12, Series of 1989, dated 26 July 1989, Section II, Subsection A, paragraph 3.
>
> All VOS filed before 15 June 1988, the date of effectivity of the CARL, shall be heard and processed in accordance with the procedure provided for in Executive Order No. 229.
>
> "x x x."

Section 9 of E.O. 229 provides:

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> "Sec. 9. Voluntary Offer to Sell. The government shall purchase all agricultural lands it deems productive and suitable to farmer cultivation voluntarily offered for sale to it at a valuation determined in accordance with Section 6. Such transaction shall be exempt from the payment of capital gains tax and other taxes and fees."

Executive Order 229 does not contain the procedure for the identification of private land as set forth in DAR A. O. No. 12, Series of 1989. Section 5 of E.O. 229 merely reiterates the procedure of acquisition in Section 16, R.A. 6657. In other words, the E.O. is silent as to the procedure for the identification of the land, the notice of coverage and the preliminary conference with the landowner, representatives of the BARC, the LBP and farmer beneficiaries. Does this mean that these requirements may be dispensed with regard to VOS filed before June 15, 1988? The answer is no.

First of all, the same E.O. 229, like Section 16 of the CARL, requires that the land, landowner and beneficiaries of the land subject to agrarian reform be identified before the notice of acquisition should be issued.[74] Hacienda Caylaway was voluntarily offered for sale in 1989. The Hacienda has a total area of 867.4571 hectares and is covered by four (4) titles. In two separate Resolutions both dated January 12, 1989, respondent DAR, through the Regional Director, formally accepted the VOS over two of these four titles.[75] The land covered by the two titles has an area of 855.5257 hectares, but only 648.8544 hectares thereof fell within the coverage of R.A. 6657.[76] Petitioner claims it does not know where these portions are located.

Respondent DAR, on the other hand, avers that surveys on the land covered by the four titles were conducted in 1989, and that petitioner, as landowner, was not denied participation therein. The results of the survey and the land valuation summary report, however, do not indicate whether notices to attend the same were actually sent to and received by petitioner or its duly authorized representative.[77] To reiterate, Executive Order No. 229 does not lay down the operating procedure, much less the notice requirements, before the VOS is accepted by respondent DAR. Notice to the landowner, however, cannot be dispensed with. It is part of administrative due process and is an essential requisite to enable the landowner himself to exercise, at the very least, his right of retention guaranteed under the CARL.

III. The Conversion of the three Haciendas.

It is petitioner's claim that the three haciendas are not subject to agrarian reform because they have been declared for tourism, not agricultural purposes.[78] In 1975, then President Marcos issued Proclamation No. 1520 declaring the municipality of Nasugbu, Batangas a tourist zone. Lands in Nasugbu, including the subject haciendas, were allegedly reclassified as non-agricultural 13 years before the effectivity of R. A. No. 6657.[79] In 1993, the Regional Director for Region IV of the Department of Agriculture certified that the haciendas are not feasible and sound for agricultural development.[80] On March 20, 1992, pursuant to Proclamation No. 1520, the Sangguniang Bayan of Nasugbu, Batangas adopted Resolution No. 19 reclassifying certain areas of Nasugbu as non-agricultural.[81] This Resolution approved Municipal Ordinance No. 19, Series of 1992, the Revised Zoning Ordinance of Nasugbu[82] which zoning ordinance was based on a Land Use Plan for Planning Areas for New Development allegedly prepared by the University of the Philippines.[83] Resolution No. 19 of the Sangguniang Bayan was approved by the Sangguniang Panlalawigan of Batangas on March 8, 1993.[84]

Petitioner claims that Proclamation No. 1520 was also upheld by respondent DAR in 1991 when it approved conversion of 1,827 hectares in Nasugbu into a tourist area known as the Batulao Resort Complex, and 13.52 hectares in Barangay Caylaway as within the potential tourist belt. [85] Petitioner presents evidence before us that these areas are adjacent to the haciendas subject of this petition, hence, the haciendas should likewise be converted. Petitioner urges this Court to take cognizance of the conversion proceedings and rule accordingly.[86]

We do not agree. Respondent DAR's failure to observe due process in the acquisition of petitioner's landholdings

does not ipso facto give this Court the power to adjudicate over petitioner's application for conversion of its haciendas from agricultural to non-agricultural. The agency charged with the mandate of approving or disapproving applications for conversion is the DAR.

At the time petitioner filed its application for conversion, the Rules of Procedure governing the processing and approval of applications for land use conversion was the DAR A. O. No. 2, Series of 1990. Under this A. O., the application for conversion is filed with the MARO where the property is located. The MARO reviews the application and its supporting documents and conducts field investigation and ocular inspection of the property. The findings of the MARO are subject to review and evaluation by the Provincial Agrarian Reform Officer (PARO). The PARO may conduct further field investigation and submit a supplemental report together with his recommendation to the Regional Agrarian Reform Officer (RARO) who shall review the same. For lands less than five hectares, the RARO shall approve or disapprove applications for conversion. For lands exceeding five hectares, the RARO shall evaluate the PARO Report and forward the records and his report to the Undersecretary for Legal Affairs. Applications over areas exceeding fifty hectares are approved or disapproved by the Secretary of Agrarian Reform.

The DAR's mandate over applications for conversion was first laid down in Section 4 (j) and Section 5 (1) of Executive Order No. 129-A, Series of 1987 and reiterated in the CARL and Memorandum Circular No. 54, Series of 1993 of the Office of the President. The DAR's jurisdiction over applications for conversion is provided as follows:

> "A. The Department of Agrarian Reform (DAR) is mandated to "approve or disapprove applications for conversion, restructuring or readjustment of agricultural lands into non-agricultural uses," pursuant to Section 4 (j) of Executive Order No. 129-A, Series of 1987.
>
> "B. Section 5 (1) of E.O. 129-A, Series of 1987, vests in the DAR, exclusive authority to approve or disapprove applications for conversion of agricultural lands for residential, commercial, industrial and other land uses.
>
> "C Section 65 of R. A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, likewise empowers the DAR to authorize under certain conditions, the conversion of agricultural lands.
>
> "D. Section 4 of Memorandum Circular No. 54, Series of 1993 of the Office of the President, provides that "action on applications for land use conversion on individual landholdings shall remain as the responsibility of the DAR, which shall utilize as its primary reference, documents on the comprehensive land use plans and accompanying ordinances passed upon and approved by the local government units concerned, together with the National Land Use Policy, pursuant to R. A. No. 6657 and E. O. No. 129-A."[87]

Applications for conversion were initially governed by DAR A. O. No. 1, Series of 1990 entitled "Revised Rules and Regulations Governing Conversion of Private Agricultural Lands and Non-Agricultural Uses," and DAR A. O. No. 2, Series of 1990 entitled "Rules of Procedure Governing the Processing and Approval of Applications for Land Use Conversion." These A.O.'s and other implementing guidelines, including Presidential issuances and national policies related to land use conversion have been consolidated in DAR A. O. No. 07, Series of 1997. Under this recent issuance, the guiding principle in land use conversion is:

> "to preserve prime agricultural lands for food production while, at the same time, recognizing the need of the

> other sectors of society (housing, industry and commerce) for land, when coinciding with the objectives of the Comprehensive Agrarian Reform Law to promote social justice, industrialization and the optimum use of land as a national resource for public welfare."[88]

"Land Use" refers to the manner of utilization of land, including its allocation, development and management. "Land Use Conversion" refers to the act or process of changing the current use of a piece of agricultural land into some other use as approved by the DAR.[89] The conversion of agricultural land to uses other than agricultural requires field investigation and conferences with the occupants of the land. They involve factual findings and highly technical matters within the special training and expertise of the DAR. DAR A. O. No. 7, Series of 1997 lays down with specificity how the DAR must go about its task. This time, the field investigation is not conducted by the MARO but by a special task force, known as the Center for Land Use Policy Planning and Implementation (CLUPPI- DAR Central Office). The procedure is that once an application for conversion is filed, the CLUPPI prepares the Notice of Posting. The MARO only posts the notice and thereafter issues a certificate to the fact of posting. The CLUPPI conducts the field investigation and dialogues with the applicants and the farmer beneficiaries to ascertain the information necessary for the processing of the application. The Chairman of the CLUPPI deliberates on the merits of the investigation report and recommends the appropriate action. This recommendation is transmitted to the Regional Director, thru the Undersecretary, or Secretary of Agrarian Reform. Applications involving more than fifty hectares are approved or disapproved by the Secretary. The procedure does not end with the Secretary, however. The Order provides that the decision of the Secretary may be appealed to the Office of the President or the Court of Appeals, as the case may be, viz:

> "Appeal from the decision of the Undersecretary shall be made to the Secretary, and from the Secretary to the Office of the President or the Court of Appeals as the case may be. The mode of appeal/ motion for reconsideration, and the appeal fee, from Undersecretary to the Office of the Secretary shall be the same as that of the Regional Director to the Office of the Secretary."[90]

Indeed, the doctrine of primary jurisdiction does not warrant a court to arrogate unto itself authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence.[91] Respondent DAR is in a better position to resolve petitioner's application for conversion, being primarily the agency possessing the necessary expertise on the matter. The power to determine whether Haciendas Palico, Banilad and Caylaway are non-agricultural, hence, exempt from the coverage of the CARL lies with the DAR, not with this Court.

Finally, we stress that the failure of respondent DAR to comply with the requisites of due process in the acquisition proceedings does not give this Court the power to nullify the CLOA's already issued to the farmer beneficiaries. To assume the power is to short-circuit the administrative process, which has yet to run its regular course. Respondent DAR must be given the chance to correct its procedural lapses in the acquisition proceedings. In Hacienda Palico alone, CLOA's were issued to 177 farmer beneficiaries in 1993.[92] Since then until the present, these farmers have been cultivating their lands.[93] It goes against the basic precepts of justice, fairness and equity to deprive these people, through no fault of their own, of the land they till. Anyhow, the farmer beneficiaries hold the property in trust for the rightful owner of the land.

IN VIEW WHEREOF, the petition is granted in part and the acquisition proceedings over the three haciendas are nullified for respondent DAR's failure to observe due process therein. In accordance with the guidelines set forth in this decision and the applicable administrative procedure, the case is hereby remanded to respondent DAR for proper acquisition proceedings and determination of petitioner's application for conversion.

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SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Mendoza, Panganiban, Purisima, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Melo, J., see concurring and dissenting opinion.
Kapunan, Quisumbing, and Pardo, JJ., concur in the dissenting opinion of J. Santiago.
Ynares-Santiago, J., see concurring and dissenting opinion.

CONCURRING AND DISSENTING OPINION
MELO, J.:

I concur in the ponencia of Justice Ynares-Santiago, broad and exhaustive as it is in its treatment of the issues. However, I would like to call attention to two or three points which I believe are deserving of special emphasis.

The apparent incongruity or shortcoming in the petition is DAR's disregard of a law which settled the non-agricultural nature of the property as early as 1975. Related to this are the inexplicable contradictions between DAR's own official issuances and its challenged actuations in this particular case.

Presidential Proclamation No. 1520 has the force and effect of law unless repealed. This law declared Nasugbu, Batangas as a tourist zone.

Considering the new and pioneering stage of the tourist industry in 1975, it can safely be assumed that Proclamation 1520 was the result of empirical study and careful determination, not political or extraneous pressures. It cannot be disregarded by DAR or any other department of Government.

In Province of Camarines Sur, et al. vs. Court of Appeals, et al. (222 SCRA 173, 182 [1993]), we ruled that local governments need not obtain the approval of DAR to reclassify lands from agricultural to non-agricultural use. In the present case, more than the exercise of that power, the local governments were merely putting into effect a law when they enacted the zoning ordinances in question.

Any doubts as to the factual correctness of the zoning reclassifications are answered by the February 2, 1993 certification of the Department of Agriculture that the subject landed estates are not feasible and economically viable for agriculture, based on the examination of their slope, terrain, depth, irrigability, fertility, acidity, and erosion considerations.

I agree with the ponencia's rejection of respondent's argument that agriculture is not incompatible and may be enforced in an area declared by law as a tourist zone. Agriculture may contribute to the scenic views and variety of countryside profiles but the issue in this case is not the beauty of ricefields, cornfields, or coconut groves. May land found to be non-agricultural and declared as a tourist zone by law, be withheld from the owner's efforts to develop it as such? There are also plots of land within Clark Field And other commercial-industrial zones capable of cultivation but this does not subject them to compulsory land reform. It is the best use of the land for tourist purposes, free trade zones, export processing or other function to which it is dedicated that it is the determining factor. Any cultivation is temporary and voluntary.

The other point I wish to emphasize is DAR's failure to follow its own administrative orders and regulations in this case.

The contradictions between DAR administrative orders and its actions in the present case may be summarized:

1. DAR Administrative Order No. 6, Series of 1994, subscribes to Department of Justice Opinion No. 44, Series

of 1990 that lands classified as non-agricultural prior to June 15, 1988 when the CARP Law was passed are exempt from its coverage. By what right can DAR now ignore its own Guidelines in this case of land declared as forming a tourism zone since 1975?

2. DAR Order dated January 22, 1991 granted the conversion of the adjacent and contiguous property of Group Developers and Financiers, Inc. (GDFI) into the Batulao tourist Resort. Why should DAR have a contradictory stance in the adjoining property of Roxas and co., Inc. found to be similar in nature and declared as such?

3. DAR Exemption Order, Case No. H-9999-050-97 dated May 17, 1999 only recently exempted 13.5 hectares of petitioner's property also found in Caylaway together, and similarly situated, with the bigger parcel (Hacienda Caylaway) subject of this petition from CARL coverage. To that extent, it admits that its earlier blanket objections are unfounded.

4. DAR Administrative Order No. 3, Series of 1996 identifies the land outside of CARP coverage as:

> (a) land found by DAR as no longer suitable for agriculture and which cannot be given appropriate valuation by the Land Bank;
>
> (b) Land where DAR has already issued a conversion order;
>
> (c) Land determined as exempt under DOJ Opinions Nos. 44 and 181; or
>
> (d) Land declared for non-agricultural use by Presidential Proclamation.

It is readily apparent that the land in this case falls under all the above categories except the second one. DAR is acting contrary to its own rules and regulations.

I should add that DAR has affirmed in a Rejoinder (august 20, 1999) the issuance and effectivity of the above administrative orders.

DAR Administrative Order No. 3, Series of 1996, Paragraph 2 of Part II, Part III and Part IV outlines the procedure for reconveyance of land where CLOAs have been improperly issued. The procedure is administrative, detailed, simple, and speedy. Reconveyance is implemented by DAR which treats the procedure as "enshrined ... in Section 50 of Republic Act No. 6657" (Respondent's Rejoinder). Administrative Order No. 3, Series of 1996 shows there are no impediments to administrative or judicial cancellations of CLOA's improperly issued over exempt property. Petitioner further submits, and this respondent does not refute, that 25 CLOAs covering 3, 338 hectares of land owned by the Manila Southcoast Development Corporation also found in Nasugbu, Batangas, have been cancelled on similar grounds as those in the case at bar.

The CLOAs in the instant case were issued over land declared as non-agricultural by a presidential proclamation and confirmed as such by actions of the Department of Agriculture and the local government units concerned. The CLOAs were issued over adjoining lands similarly situated and of like nature as those declared by DAR as exempt from CARP coverage. The CLOAs were surprisingly issued over property which were the subject of pending cases still undecided by DAR. There should be no question over the CLOAs having been improperly issued, for which reason, their cancellation is warranted.

CONCURRING AND DISSENTING OPINION

YNARES-SANTIAGO, J.:

I concur in the basic premises of the majority opinion. However, I dissent in its final conclusions and the dispositive portion.

With all due respect, the majority opinion centers on procedure but unfortunately ignores the substantive merits which this procedure should unavoidably sustain.

The assailed decision of the Court of Appeals had only one basic reason for its denial of the petition, i.e., the application of the doctrine of non-exhaustion of administrative remedies. This Court's majority ponencia correctly reverses the Court of Appeals on this issue. The ponencia now states that the issuance of CLOA's to farmer beneficiaries deprived petitioner Roxas & Co. of its property without just compensation. It rules that the acts of the Department of Agrarian Reform are patently illegal. It concludes that petitioner's rights were violated, and thus to require it to exhaust administrative remedies before DAR was not a plain, speedy, and adequate remedy. Correctly, petitioner sought immediate redress from the Court of Appeals to this Court.

However, I respectfully dissent from the judgment which remands the case to the DAR. If the acts of DAR are patently illegal and the rights of Roxas & Co. violated, the wrong decisions of DAR should be reversed and set aside. It follows that the fruits of the wrongful acts, in this case the illegally issued CLOAs, must be declared null and void.

Petitioner Roxas & Co. Inc. is the registered owner of three (3) haciendas located in Nasugbu, Batangas, namely: Hacienda Palico comprising of an area of 1,024 hectares more or less, covered by Transfer Certificate of Title No. 985 (Petition, Annex "G"; Rollo, p. 203); Hacienda Banilad comprising an area of 1,050 hectares and covered by TCT No. 924 (Petition, Annex "I"; Rollo, p. 205); and Hacienda Caylaway comprising an area of 867.4571 hectares and covered by TCT Nos. T-44655 (Petition, Annex ""O"; Rollo, p. 216), T-44662 (Petition, Annex "P"; Rollo, p. 217), T-44663 (Petition, Annex ""Q"; Rollo, p. 210) and T-44664 (Petition, Annex "R"; Rollo, p. 221).

Sometime in 1992 and 1993, petitioner filed applications for conversion with DAR. Instead of either denying or approving the applications, DAR ignored and sat on them for seven (7) years. In the meantime and in acts of deceptive lip-service, DAR excluded some small and scattered lots in Palico and Caylaway from CARP coverage. The majority of the properties were parceled out to alleged farmer-beneficiaries, one at a time, even as petitioner's applications were pending and unacted upon.

The majority ponencia cites Section 16 of Republic Act No. 6657 on the procedure for acquisition of private lands.

The ponencia cites the detailed procedures found in DAR Administrative Order No. 12, Series of 1989 for the identification of the land to be acquired. DAR did not follow its own prescribed procedures. There was no valid issuance of a Notice of Coverage and a Notice of Acquisition.

The procedure on the evaluation and determination of land valuation, the duties of the Municipal Agrarian Reform Officer (MARO), the Barangay Agrarian Reform Committee (BARC), Provincial Agrarian Reform Officer (PARO) and the Bureau of Land Acquisition and Distribution (BLAD), the documentation and reports on the step-by-step process, the screening of prospective Agrarian Reform Beneficiaries (ARBs), the land survey and segregation survey plan, and other mandatory procedures were not followed. The landowner was not properly informed of anything going on.

Equally important, there was no payment of just compensation. I agree with the ponencia that due process was not observed in the taking of petitioner's properties. Since the DAR did not validly acquire ownership over the lands,

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there was no acquired property to validly convey to any beneficiary. The CLOAs were null and void from the start.

Petitioner states that the notices of acquisition were sent by respondents by ordinary mail only, thereby disregarding the procedural requirement that notices be served personally or by registered mail. This is not disputed by respondents, but they allege that petitioner changed its address without notifying the DAR. Notably, the procedure prescribed speaks of only two modes of service of notices of acquisition --- personal service and service by registered mail. The non-inclusion of other modes of service can only mean that the legislature intentionally omitted them. In other words, service of a notice of acquisition other than personally or by registered mail is not valid. Casus omissus pro omisso habendus est. The reason is obvious. Personal service and service by registered mail are methods that ensure receipt by the addressee, whereas service by ordinary mail affords no reliable proof of receipt.

Since it governs the extraordinary method of expropriating private property, the CARL should be strictly construed. Consequently, faithful compliance with its provisions, especially those which relate to the procedure for acquisition of expropriated lands, should be observed. Therefore, the service by respondent DAR of the notices of acquisition to petitioner by ordinary mail, not being in conformity with the mandate of RA 6657, is invalid and ineffective.

With more reason, the compulsory acquisition of portions of Hacienda Palico, for which no notices of acquisition were issued by the DAR, should be declared invalid.

The entire ponencia, save for the last six (6) pages, deals with the mandatory procedures promulgated by law and DAR and how they have not been complied with. There can be no debate over the procedures and their violation. However, I respectfully dissent in the conclusions reached in the last six pages. Inspite of all the violations, the deprivation of petitioner's rights, the non-payment of just compensation, and the consequent nullity of the CLOAs, the Court is remanding the case to the DAR for it to act on the petitioner's pending applications for conversion which have been unacted upon for seven (7) years.

Petitioner had applications for conversion pending with DAR. Instead of deciding them one way or the other, DAR sat on the applications for seven (7) years. At the same time it rendered the applications inutile by distributing CLOAs to alleged tenants. This action is even worse than a denial of the applications because DAR had effectively denied the application against the applicant without rendering a formal decision. This kind of action preempted any other kind of decision except denial. Formal denial was even unnecessary. In the case of Hacienda Palico, the application was in fact denied on November 8, 1993.

There are indisputable and established factors which call for a more definite and clearer judgment.

The basic issue in this case is whether or not the disputed property is agricultural in nature and covered by CARP. That petitioner's lands are non-agricultural in character is clearly shown by the evidence presented by petitioner, all of which were not disputed by respondents. The disputed property is definitely not subject to CARP.

The nature of the land as non-agricultural has been resolved by the agencies with primary jurisdiction and competence to decide the issue, namely --- (1) a Presidential Proclamation in 1975; (2) Certifications from the Department of Agriculture; (3) a Zoning Ordinance of the Municipality of Nasugbu, approved by the Province of Batangas; and (4) by clear inference and admissions, Administrative Orders and Guidelines promulgated by DAR itself.

The records show that on November 20, 1975 even before the enactment of the CARP law, the Municipality of Nasugbu, Batangas was declared a "tourist zone" in the exercise of lawmaking power by then President Ferdinand

E. Marcos under Proclamation No. 1520 (Rollo, pp.122-123). This Presidential Proclamation is indubitably part of the law of the land.

On 20 March 1992 the Sangguniang Bayan of Nasugbu promulgated its Resolution No. 19, a zonification ordinance (Rollo, pp. 124-200), pursuant to its powers under Republic Act No. 7160, i.e., the Local Government Code of 1991. The municipal ordinance was approved by the Sangguniang Panlalawigan of Batangas (Rollo, p. 201). Under this enactment, portions of the petitioner's properties within the municipality were re-zonified as intended and appropriate for non-agricultural uses. These two issuances, together with Proclamation 1520, should be sufficient to determine the nature of the land as non-agricultural. But there is more.

The records also contain a certification dated March 1, 1993 from the Director of Region IV of the Department of Agriculture that the disputed lands are no longer economically feasible and sound for agricultural purposes (Rollo, p. 213).

DAR itself impliedly accepted and determined that the municipality of Nasugbu is non-agricultural when it affirmed the force and effect of Presidential Proclamation 1520. In an Order dated January 22, 1991, DAR granted the conversion of the adjoining and contiguous landholdings owned by Group Developer and Financiers, Inc. in Nasugbu pursuant to the Presidential Proclamation. The property alongside the disputed properties is now known as "Batulao Resort Complex". As will be shown later, the conversion of various other properties in Nasugbu has been ordered by DAR, including a property disputed in this petition, Hacienda Caylaway.

Inspite of all the above, the Court of Appeals concluded that the lands comprising petitioner's haciendas are agricultural, citing, among other things, petitioner's acts of voluntarily offering Hacienda Caylaway for sale and applying for conversion its lands from agricultural to non-agricultural.

Respondents, on the other hand, did not only ignore the administrative and executive decisions. It also contended that the subject land should be deemed agricultural because it is neither residential, commercial, industrial or timber. The character of a parcel of land, however, is not determined merely by a process of elimination. The actual use which the land is capable of should be the primordial factor.

> RA 6657 explicitly limits its coverage thus:
>
> "The Comprehensive Agrarian Reform Law of 1998 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture."
>
> "More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:
> (a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account, ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;
>
> (b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
>
> (c) All other lands owned by the Government devoted to or suitable for agriculture; and
>
> (d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon." (RA 6657, Sec. 4; underscoring provided)

In Luz Farms v. Secretary of the Department of Agrarian Reform and Natalia Realty, Inc. v. Department of Agrarian Reform, this Court had occasion to rule that agricultural lands are only those which are arable and

suitable.

It is at once noticeable that the common factor that classifies land use as agricultural, whether it be public or private land, is its suitability for agriculture. In this connection, RA 6657 defines "agriculture" as follows:

> "Agriculture, Agricultural Enterprises or Agricultural Activity means the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry or fish, including the harvesting of such farm products, and other farm activities, and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical." (RA 6657, sec. 3[b])

In the case at bar, petitioner has presented certifications issued by the Department of Agriculture to the effect that Haciendas Palico, Banilad and Caylaway are not feasible and economically viable for agricultural development due to marginal productivity of the soil, based on an examination of their slope, terrain, depth, irrigability, fertility, acidity, and erosion factors (Petition, Annex "L", Rollo, p. 213; Annex "U", Rollo, p. 228). This finding should be accorded respect considering that it came from competent authority, said Department being the agency possessed with the necessary expertise to determine suitability of lands to agriculture. The DAR Order dated January 22, 1991 issued by respondent itself stated that the adjacent land now known as the Batulao Resort Complex is hilly, mountainous, and with long and narrow ridges and deep gorges. No permanent sites are planted. Cultivation is by kaingin method. This confirms the findings of the Department of Agriculture.

Parenthetically, the foregoing finding of the Department of Agriculture also explains the validity of the reclassification of petitioner's lands by the Sangguniang Bayan of Nasugbu, Batangas, pursuant to Section 20 of the Local Government Code of 1991. It shows that the condition imposed by respondent Secretary of Agrarian Reform on petitioner for withdrawing its voluntary offer to sell Hacienda Caylaway, i.e., that the soil be unsuitable for agriculture, has been adequately met. In fact, the DAR in its Order in Case No. A-9999-050-97, involving a piece of land also owned by petitioner and likewise located in Caylaway, exempted it from the coverage of CARL (Order dated May 17, 1999; Annex "D" of Petitioner's Manifestation), on these grounds.

Furthermore, and perhaps more importantly, the subject lands are within an area declared in 1975 by Presidential Proclamation No. 1520 to be part of a tourist zone. This determination was made when the tourism prospects of the area were still for the future. The studies which led to the land classification were relatively freer from pressures and, therefore, more objective and open-minded. Respondent, however, contends that agriculture is not incompatible with the lands' being part of a tourist zone since "agricultural production, by itself, is a natural asset and, if properly set, can command tremendous aesthetic value in the form of scenic views and variety of countryside profiles" (Comment, Rollo, 579).

The contention is untenable. Tourist attractions are not limited to scenic landscapes and lush greeneries. Verily, tourism is enhanced by structures and facilities such as hotels, resorts, rest houses, sports clubs and golf courses, all of which bind the land and render it unavailable for cultivation. As aptly described by petitioner:

> "The development of resorts, golf courses, and commercial centers is inconsistent with agricultural development. True, there can be limited agricultural production within the context of tourism development. However, such small scale farming activities will be dictated by, and subordinate to the needs or tourism development. In fact, agricultural use of land within Nasugbu may cease entirely if deemed necessary by the Department of Tourism" (Reply, Rollo, p. 400).

The lands subject hereof, therefore, are non-agricultural. Hence, the voluntary offer to sell Hacienda Caylaway should not be deemed an admission that the land is agricultural. Rather, the offer was made by petitioner in good faith, believing at the time that the land could still be developed for agricultural production. Notably, the offer to sell was made as early as May 6, 1988, before the soil thereon was found by the Department of Agriculture to be

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unsuitable for agricultural development (the Certifications were issued on 2 February 1993 and 1 March 1993). Petitioner's withdrawal of its voluntary offer to sell, therefore, was not borne out of a whimsical or capricious change of heart. Quite simply, the land turned out to be outside of the coverage of the CARL, which by express provision of RA 6657, Section 4, affects only public and private agricultural lands. As earlier stated, only on May 17, 1999, DAR Secretary Horacio Morales, Jr. approved the application for a lot in Caylaway, also owned by petitioner, and confirmed the seven (7) documentary evidences proving the Caylaway area to be non-agricultural (DAR Order dated 17 May 1999, in Case No. A-9999-050-97, Annex "D" Manifestation).

The DAR itself has issued administrative circulars governing lands which are outside of CARP and may not be subjected to land reform. Administrative Order No. 3, Series of 1996 declares in its policy statement what landholdings are outside the coverage of CARP. The AO is explicit in providing that such non-covered properties shall be reconveyed to the original transferors or owners.

> These non-covered lands are:
>
> a. Land, or portions thereof, found to be no longer suitable for agriculture and, therefore, could not be given appropriate valuation by the Land Bank of the Philippines (LBP);
>
> b. Those were a Conversion Order has already been issued by the DAR allowing the use of the landholding other than for agricultural purposes in accordance with Section 65 of R.A. No. 6657 and Administrative Order No. 12, Series of 1994;
>
> c. Property determined to be exempted from CARP coverage pursuant to Department of Justice Opinion Nos. 44 and 181; or
>
> d. Where a Presidential Proclamation has been issued declaring the subject property for certain uses other than agricultural. (Annex "F", Manifestation dated July 23, 1999)

The properties subject of this Petition are covered by the first, third, and fourth categories of the Administrative Order. The DAR has disregarded its own issuances which implement the law.

To make the picture clearer, I would like to summarize the law, regulations, ordinances, and official acts which show beyond question that the disputed property is non-agricultural, namely:

> (a) The Law. Proclamation 1520 dated November 20, 1975 is part of the law of the land. It declares the area in and around Nasugbu, Batangas, as a Tourist Zone. It has not been repealed, and has in fact been used by DAR to justify conversion of other contiguous and nearby properties of other parties.
>
> (b) Ordinances of Local Governments. Zoning ordinance of the Sangguniang Bayan of Nasugbu, affirmed by the Sangguniang Panlalawigan of Batangas, expressly defines the property as tourist, not agricultural. The power to classify its territory is given by law to the local governments.
>
> (c) Certification of the Department of Agriculture that the property is not suitable and viable for agriculture. The factual nature of the land, its marginal productivity and non-economic feasibility for cultivation, are described in detail.
>
> (d) Acts of DAR itself which approved conversion of contiguous or adjacent land into the Batulao Resorts Complex. DAR described at length the non-agricultural nature of Batulao and of portion of the disputed property, particularly Hacienda Caylaway.

> (e) DAR Circulars and Regulations. DAR Administrative Order No. 6, Series of 1994 subscribes to the Department of Justice opinion that the lands classified as non-agricultural before the CARP Law, June 15, 1988, are exempt from CARP. DAR Order dated January 22, 1991 led to the Batulao Tourist Area. DAR Order in Case No. H-9999-050-97, May 17, 1999, exempted 13.5 hectares of Caylaway, similarly situated and of the same nature as Batulao, from coverage. DAR Administrative Order No. 3, Series of 1996, if followed, would clearly exclude subject property from coverage.

As earlier shown, DAR has, in this case, violated its own circulars, rules and regulations.

In addition to the DAR circulars and orders which DAR itself has not observed, the petitioner has submitted a municipal map of Nasugbu, Batangas (Annex "E", Manifestation dated July 23, 1999). The geographical location of Palico, Banilad, and Caylaway in relation to the GDFI property, now Batulao Tourist Resort, shows that the properties subject of this case are equally, if not more so, appropriate for conversion as the GDFI resort.

Petitioner's application for the conversion of its lands from agricultural to non-agricultural was meant to stop the DAR from proceeding with the compulsory acquisition of the lands and to seek a clear and authoritative declaration that said lands are outside of the coverage of the CARL and can not be subjected to agrarian reform.

Petitioner assails respondent's refusal to convert its lands to non-agricultural use and to recognize Presidential Proclamation No. 1520, stating that respondent DAR has not been consistent in its treatment of applications of this nature. It points out that in the other case involving adjoining lands in Nasugbu, Batangas, respondent DAR ordered the conversion of the lands upon application of Group Developers and Financiers, Inc. Respondent DAR, in that case, issued an Order dated January 22, 1991 denying the motion for reconsideration filed by the farmers thereon and finding that:

> "In fine, on November 27, 1975, or before the movants filed their instant motion for reconsideration, then President Ferdinand E. Marcos issued Proclamation No. 1520, declaring the municipalities of Maragondon and Ternate in the province of Cavite and the municipality of Nasugbu in the province of Batangas as tourist zone. Precisely, the landholdings in question are included in such proclamation. Up to now, this office is not aware that said issuance has been repealed or amended" (Petition, Annex "W"; Rollo, p. 238).

The DAR Orders submitted by petitioner, and admitted by DAR in its Rejoinder (Rejoinder of DAR dated August 20, 1999), show that DAR has been inconsistent to the extent of being arbitrary.

Apart from the DAR Orders approving the conversion of the adjoining property now called Batulao Resort Complex and the DAR Order declaring parcels of the Caylaway property as not covered by CARL, a major Administrative Order of DAR may also be mentioned.

The Department of Justice in DOJ Opinion No. 44 dated March 16, 1990 (Annex "A" of Petitioner's Manifestation) stated that DAR was given authority to approve land conversions only after June 15, 1988 when RA 6657, the CARP Law, became effective. Following the DOJ Opinion, DAR issued its AO No. 06, Series of 1994 providing for the Guidelines on Exemption Orders (Annex "B", Id.). The DAR Guidelines state that lands already classified as non-agricultural before the enactment of CARL are exempt from its coverage. Significantly, the disputed properties in this case were classified as tourist zone by no less than a Presidential Proclamation as early as 1975, long before 1988.

The above, petitioner maintains, constitute unequal protection of the laws. Indeed, the Constitution guarantees that "(n)o person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws" (Constitution, Art. III, Sec.1). Respondent DAR, therefore, has no alternative but to abide by the declaration in Presidential Proclamation 1520, just as it did in the case of Group Developers and Financiers, Inc., and to treat petitioners' properties in the same way it did the lands of Group

Developers, i.e., as part of a tourist zone not suitable for agriculture.

On the issue of non-payment of just compensation which results in a taking of property in violation of the Constitution, petitioner argues that the opening of a trust account in its favor did not operate as payment of the compensation within the meaning of Section 16 (e) of RA 6657. In Land Bank of the Philippines v. Court of Appeals (249 SCRA 149, at 157 [1995]), this Court struck down as null and void DAR Administrative Circular No. 9, Series of 1990, which provides for the opening of trust accounts in lieu of the deposit in cash or in bonds contemplated in Section 16 (e) of RA 6657.

> "It is very explicit therefrom (Section 16 [e]) that the deposit must be made only in `cash' or in `LBP bonds.' Nowhere does it appear nor can it be inferred that the deposit can be made in any other form. If it were the intention to include a `trust account' among the valid modes of deposit, that should have been made express, or at least, qualifying words ought to have appeared from which it can be fairly deduced that a `trust account' is allowed. In sum, there is no ambiguity in Section 16(e) of RA 6657 to warrant an expanded construction of the term `deposit.'
>
> x x x
> "In the present suit, the DAR clearly overstepped the limits of its powers to enact rules and regulations when it issued Administrative Circular No. 9. There is no basis in allowing the opening of a trust account in behalf of the landowner as compensation for his property because, as heretofore discussed, section 16(e) of RA 6657 is very specific that the deposit must be made only in `cash' or in `LBP bonds.' In the same vein, petitioners cannot invoke LRA Circular Nos. 29, 29-A and 54 because these implementing regulations can not outweigh the clear provision of the law. Respondent court therefore did not commit any error in striking down Administrative Circular No. 9 for being null and void."

There being no valid payment of just compensation, title to petitioner's landholdings cannot be validly transferred to the Government. A close scrutiny of the procedure laid down in Section 16 of RA 6657 shows the clear legislative intent that there must first be payment of the fair value of the land subject to agrarian reform, either directly to the affected landowner or by deposit of cash or LBP bonds in the DAR-designated bank, before the DAR can take possession of the land and request the register of deeds to issue a transfer certificate of title in the name of the Republic of the Philippines. This is only proper inasmuch as title to private property can only be acquired by the government after payment of just compensation. In Association of Small Landowners in the Philippines v. Secretary of Agrarian Reform (175 SCRA 343, 391[1989]), this Court held:

> "The CARP Law, for its part, conditions the transfer of possession and ownership of the land to the government on receipt of the landowner of the corresponding payment or the deposit by the DAR of the compensation in cash or LBP bonds with an accessible bank. Until then, title also remains with the landowner. No outright change of ownership is contemplated either."

Necessarily, the issuance of the CLOAs by respondent DAR on October 30, 1993 and their distribution to farmer-beneficiaries were illegal inasmuch as no valid payment of compensation for the lands was as yet effected. By law, Certificates of Land Ownership Award are issued only to the beneficiaries after the DAR takes actual possession of the land (RA 6657, Sec. 24), which in turn should only be after the receipt by the landowner of payment or, in case of rejection or no response from the landowner, after the deposit of the compensation for the land in cash or in LBP bonds (RA 6657, Sec. 16[e]).

Respondents argue that the Land Bank ruling should not be made to apply to the compulsory acquisition of petitioner's landholdings in 1993, because it occurred prior to the promulgation of the said decision (October 6, 1995). This is untenable. Laws may be given retroactive effect on constitutional considerations, where the prospective application would result in a violation of a constitutional right. In the case at bar, the expropriation of

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petitioner's lands was effected without a valid payment of just compensation, thus violating the Constitutional mandate that "(p)rivate property shall not be taken for public use without just compensation" (Constitution, Art. III, Sec. 9). Hence, to deprive petitioner of the benefit of the Land Bank ruling on the mere expedient that it came later than the actual expropriation would be repugnant to petitioner's fundamental rights.

> The controlling last two (2) pages of the ponencia state:
>
> "Finally, we stress that the failure of respondent DAR to comply with the requisites of due process in the acquisition proceedings does not give this Court the power to nullify the CLOA's already issued to the farmer beneficiaries. To assume the power is to short-circuit the administrative process, which has yet to run its regular course. Respondent DAR must be given the chance to correct its procedural lapses in the acquisition proceedings. In Hacienda Palico alone, CLOA's were issued to 177 farmer beneficiaries in 1993. Since then until the present, these farmers have been cultivating their lands. It goes against the basic precepts of justice, fairness and equity to deprive these people, through no fault of their own, of the land they till. Anyhow, the farmer beneficiaries hold the property in trust for the rightful owner of the land."

I disagree with the view that this Court cannot nullify illegally issued CLOA's but must ask the DAR to first reverse and correct itself.

Given the established facts, there was no valid transfer of petitioner's title to the Government. This being so, there was also no valid title to transfer to third persons; no basis for the issuance of CLOAs.

Equally important, CLOAs do not have the nature of Torrens Title. Administrative cancellation of title is sufficient to invalidate them.

> The Court of Appeals said so in its Resolution in this case. It stated:
>
> "Contrary to the petitioner's argument that issuance of CLOAs to the beneficiaries prior to the deposit of the offered price constitutes violation of due process, it must be stressed that the mere issuance of the CLOAs does not vest in the farmer/grantee ownership of the land described therein.
>
> "At most the certificate merely evidences the government's recognition of the grantee as the party qualified to avail of the statutory mechanisms for the acquisition of ownership of the land. Thus failure on the part of the farmer/grantee to comply with his obligations is a ground for forfeiture of his certificate of transfer. Moreover, where there is a finding that the property is indeed not covered by CARP, then reversion to the landowner shall consequently be made, despite issuance of CLOAs to the beneficiaries." (Resolution dated January 17, 1997, p. 6)

DAR Administrative Order 03, Series of 1996 (issued on August 8, 1996; Annex "F" of Petitioner's Manifestation) outlines the procedure for the reconveyance to landowners of properties found to be outside the coverage of CARP. DAR itself acknowledges that they can administratively cancel CLOAs if found to be erroneous. From the detailed provisions of the Administrative Order, it is apparent that there are no impediments to the administrative cancellation of CLOAs improperly issued over exempt properties. The procedure is followed all over the country. The DAR Order spells out that CLOAs are not Torrens Titles. More so if they affect land which is not covered by the law under which they were issued. In its Rejoinder, respondent DAR states:

> "3.2. And, finally, on the authority of DAR/DARAB to cancel erroneously issued Emancipation Patents (EPs) or Certificate of Landownership Awards (CLOAs), same is enshrined, it is respectfully submitted, in Section 50 of Republic Act No. 6657."

In its Supplemental Manifestation, petitioner points out, and this has not been disputed by respondents, that DAR has also administratively cancelled twenty five (25) CLOAs covering Nasugbu properties owned by the Manila Southcoast Development Corporation near subject Roxas landholdings. These lands were found not suitable for

agricultural purposes because of soil and topographical characteristics similar to those of the disputed properties in this case.

The former DAR Secretary, Benjamin T. Leong, issued DAR Order dated January 22, 1991 approving the development of property adjacent and contiguous to the subject properties of this case into the Batulao Tourist Resort. Petitioner points out that Secretary Leong, in this Order, has decided that the land ---

> 1. Is, as contended by the petitioner GDFI "hilly, mountainous, and characterized by poor soil condition and nomadic method of cultivation, hence not suitable to agriculture."
>
> 2. Has as contiguous properties two haciendas of Roxas y Cia and found by Agrarian Reform Team Leader Benito Viray to be "generally rolling, hilly and mountainous and strudded (sic) with long and narrow ridges and deep gorges. Ravines are steep grade ending in low dry creeks."
>
> 3. Is found in an area where "it is quite difficult to provide statistics on rice and corn yields because there are no permanent sites planted. Cultivation is by Kaingin Method."
>
> 4. Is contiguous to Roxas Properties in the same area where "the people entered the property surreptitiously and were difficult to stop because of the wide area of the two haciendas and that the principal crop of the area is sugar xxx." (emphasis supplied).

I agree with petitioner that under DAR AO No. 03, Series of 1996, and unlike lands covered by Torrens Titles, the properties falling under improperly issued CLOAs are cancelled by mere administrative procedure which the Supreme Court can declare in cases properly and adversarially submitted for its decision. If CLOAs can under the DAR's own order be cancelled administratively, with more reason can the courts, especially the Supreme Court, do so when the matter is clearly in issue.

With due respect, there is no factual basis for the allegation in the motion for intervention that farmers have been cultivating the disputed property.

The property has been officially certified as not fit for agriculture based on slope, terrain, depth, irrigability, fertility, acidity, and erosion. DAR, in its Order dated January 22, 1991, stated that "it is quite difficult to provide statistics on rice and corn yields (in the adjacent property) because there are no permanent sites planted. Cultivation is by kaingin method." Any allegations of cultivation, feasible and viable, are therefore falsehoods.

The DAR Order on the adjacent and contiguous GDFI property states that "(T)he people entered the property surreptitiously and were difficult to stop x x x."

The observations of Court of Appeals Justices Verzola and Magtolis in this regard, found in their dissenting opinion (Rollo, p.116), are relevant:

> "2.9 The enhanced value of land in Nasugbu, Batangas, has attracted unscrupulous individuals who distort the spirit of the Agrarian Reform Program in order to turn out quick profits. Petitioner has submitted copies of CLOAs that have been issued to persons other than those who were identified in the Emancipation Patent Survey Profile as legitimate Agrarian Reform beneficiaries for particular portions of petitioner's lands. These persons to whom the CLOAs were awarded, according to petitioner, are not and have never been workers in petitioner's lands. Petitioners say they are not even from Batangas but come all the way from Tarlac. DAR itself is not unaware of the mischief in the implementation of the CARL in some areas of the country, including Nasugbu. In fact, DAR published a `WARNING TO THE PUBLIC' which appeared in the Philippine Daily Inquirer of April 15, 1994 regarding this malpractice.
>
> "2.10 Agrarian Reform does not mean taking the agricultural property of one and giving it to another and for the latter to unduly benefit therefrom by subsequently `converting' the same property into non-agricultural

purposes.

"2.11 The law should not be interpreted to grant power to the State, thru the DAR, to choose who should benefit from multi-million peso deals involving lands awarded to supposed agrarian reform beneficiaries who then apply for conversion, and thereafter sell the lands as non-agricultural land."

Respondents, in trying to make light of this problem, merely emphasize that CLOAs are not titles. They state that "rampant selling of rights", should this occur, could be remedied by the cancellation or recall by DAR.

In the recent case of "Hon. Carlos O. Fortich, et. al. vs. Hon. Renato C. Corona, et. al." (G.R. No. 131457, April 24, 1998), this Court found the CLOAs given to the respondent farmers to be improperly issued and declared them invalid. Herein petitioner Roxas and Co., Inc. has presented a stronger case than petitioners in the aforementioned case. The procedural problems especially the need for referral to the Court of Appeals are not present. The instant petition questions the Court of Appeals decision which acted on the administrative decisions. The disputed properties in the present case have been declared non-agricultural not so much because of local government action but by Presidential Proclamation. They were found to be non-agricultural by the Department of Agriculture, and through unmistakable implication, by DAR itself. The zonification by the municipal government, approved by the provincial government, is not the only basis.

On a final note, it may not be amiss to stress that laws which have for their object the preservation and maintenance of social justice are not only meant to favor the poor and underprivileged. They apply with equal force to those who, notwithstanding their more comfortable position in life, are equally deserving of protection from the courts. Social justice is not a license to trample on the rights of the rich in the guise of defending the poor, where no act of injustice or abuse is being committed against them. As we held in Land Bank (supra.):

"It has been declared that the duty of the court to protect the weak and the underprivileged should not be carried out to such an extent as to deny justice to the landowner whenever truth and justice happen to be on his side. As eloquently stated by Justice Isagani Cruz:

`x x x social justice --- or any justice for that matter --- is for the deserving, whether he be a millionaire in his mansion or a pauper in his hovel. It is true that, in case of reasonable doubt, we are called upon to tilt the balance in favor of the poor simply because they are poor, to whom the Constitution fittingly extends its sympathy and compassion. But never is it justified to prefer the poor simply because they are poor, or to eject the rich simply because they are rich, for justice must always be served, for poor and rich alike, according to the mandate of the law."

IN THE LIGHT OF THE FOREGOING, I vote to grant the petition for certiorari; and to declare Haciendas Palico, Banilad and Caylaway, all situated in Nasugbu, Batangas, to be non-agricultural and outside the scope of Republic Act No. 6657. I further vote to declare the Certificates of Land Ownership Award issued by respondent Department of Agrarian Reform null and void and to enjoin respondents from proceeding with the compulsory acquisition of the lands within the subject properties. I finally vote to DENY the motion for intervention.

---

[1] Article II, Section 1, Proclamation No. 3.

[2] Association of Small Landowners in the Philippines v. Secretary of Agrarian Reform, 175 SCRA 343, 366 [1989].

[3] Annex "2" to Comment, Rollo, p. 309.

[4] Id.

[5] Annex "3" to Comment, Rollo, pp. 310-314.

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[6] Annex "4" to Comment, Rollo, pp. 315-315C. Unlike Annexes "3" and "5," the list of actual occupants was not attached to the MARO Report.

[7] Annex "5" to Comment, Rollo, pp. 316-316E.

[8] Annex "7" to Comment, Rollo, p. 317.

[9] Annexes "7" and "8" to Comment, Rollo, pp. 317, 319.

[10] Annex "1" to Comment, Rollo, p. 308.

[11] Id.

[12] Annexes "9," "10" and "11" to Comment, Rollo, pp. 320-322.

[13] Annexes "K" and "N" to Petition, Rollo, pp. 211-212, 215.

[14] Petition, p. 20, Rollo, p. 30.

[15] Annexes "16," "17," "18," and "19" to Comment, Rollo, pp. 327-330.

[16] Annex "20" to Comment, Rollo, p. 331.

[17] Annex "30" to Comment, Rollo, p. 360.

[18] Id

[19] Annex "29" to Comment, Rollo, p. 359.

[20] Annex "23" to Comment, Rollo, pp. 337-344.

[21] Annex "24" to Comment, Rollo, pp. 346-354.

[22] Minutes of the Conference/Meeting, Annex "27" to Comment, Rollo, p. 357.

[23] Annex "26" to Comment, Rollo, p. 356.

[24] Annex "25" to Comment, Rollo, p. 355.

[25] Annexes "21" and "22" to Comment, Rollo, pp. 332, 333.

[26] Id.

[27] Annex "34" to Comment, Rollo, p. 364.

[28] Annex "35" to Comment, Rollo, p. 365.

[29] Annexes "37" and "38" to Comment, Rollo, pp. 367368.

[30] Annexes "42" and "43" to Comment, Rollo, pp. 372-374. In its Comment before this Court, respondent DAR states that valuation of the land under TCT No. T-44662 had not been completed, while the land under TCT No. T-44665 was not distributed due to errors in the qualifications of the farmer beneficiaries--Comment, p. 16, Rollo, p. 587.

[31] Id.

[32] Annexes "44" and "45" to Comment, Rollo, pp. 374, 375.

[33] Annexes "46" and "47" to Comment, Rollo, pp. 376, 377.

[34] Annex "S" to Petition, Rollo, pp. 223-224.

[35] Petition, p. 24, Rollo, p. 34.

[36] Annexes "K" and "N" to Petition, Rollo, pp. 211-212, 215.

[37] Annex "V" to Petition, Rollo, pp. 229-230.

[38] Petition, p. 27, Rollo, p. 37.

[39] The CA decision was penned by Justice Gloria C. Paras and concurred in by Justices Serafin Guingona and Eubulo Verzola.

[40] The Resolution was penned by Justice Paras and concurred in by Justices Jainal Rasul (vice J. Guingona who retired) and Portia Hormachuelos. Justice Verzola wrote a dissenting opinion which Justice Delilah Magtolis joined.

[41] Petition, pp. 28-29, Rollo, pp. 38-39.

[42] Corona v. Court of Appeals, 214 SCRA 378, 393 [1992]; Sunville Timber Products, Inc. v. Abad, 206 SCRA 482, 487 [1992]; Quisumbing v. Gumban, 193 SCRA 520, 523-524 [1991].

[43] Section 24, R.A. 6657.

[44] Association of Small Landowners of the Philippines v. DAR Secretary, 175 SCRA 343, 391 [1989].

[45] Land Bank of the Philippines v. Court of Appeals, 249 SCRA 149, 157 [1995].

[46] Prefatory Statement, DAR Administrative Order No. 12, Series of 1989.

[47] Now repealed by Administrative Order No. 17, Series of 1989.

[48] Id., at 174- 175.

[49] Id., at 175-177.

[50] Association of Small Landowners in the Philippines v. Secretary of Agrarian Reform, 175 SCRA 343, 373-374 [1989].

[51] Id.

[52] Section 1, Article III, 1987 Constitution.

[53] Development Bank of the Philippines v. Court of Appeals, 262 SCRA 245, 253 [1996].

[54] Prior to DAR A.O. No. 9, Series of 1990, VOS transactions were governed by A.O. No. 3, Series of 1989 and A. O. No. 19, Series of 1989 while CA transactions were governed by A. O. No. 12, Series of 1989.

[55] The DENR's participation was added by DAR A.O. No. 9, Series of 1990.

[56] The Department of Agriculture became part of the field investigation team. Under A. O. No. 9, Series of 1990, a representative of the DA was merely invited to attend the conference or public hearing.

[57] Annex "2" to Comment, Rollo, p. 309.

[58] Id.

[59] Annex "27" to Comment, Rollo, p. 357.

[60] Comment, p. 16, Rollo, p. 587.

[61] Petition, p. 5, Rollo, p. 15.

[62] R. Martin, Civil Procedure, p. 461 [1989].

[63] Delta Motors Sales Corp. vs. Mangosing, 70 SCRA 598, 603 [1976].

[64] Lee v. Court of Appeals, 205 SCRA 752, 765 [1992]; G & G Trading Corp. v. Court of Appeals, 158 SCRA 466, 468 [1988]; Villa Rey Transit, Inc. v. Far East Motor Corp., 81 SCRA 298, 303 [1978].

[65] Delta Motors Sales Corp. vs.Mangosing, supra, at 603; Rebollido v. Court of Appeals, 170 SCRA 800, 809-810, [1989].

[66] See Notice of Acquisition for Hacienda Palico, Annex "1" to Comment, Rollo, p. 308; see also MARO Investigation Reports, Annexes "3", "4", "5" to Respondent's Comment, Rollo pp. 310, 315, 316; Annexes "6", "7", "8" to Respondents' Comment, Rollo pp. 317-319.

[67] See Notices of Acquisition for Hacienda Banilad, Annexes "21" and "22" to Comment, Rollo, pp. 332, 333.

[68] [See][Notice of Acquisition for Hacienda Palico, Annex "1" to Comment, Rollo, p. 308; Notices of Acquisition for Hacienda Banilad, Annexes "21" and "22" to Comment, Rollo, pp. 332, 333.]

[69] Paragraph 5 (b), Part IV-B, A. O. 9, Series of 1990.

[70] Rejoinder of Respondents, pp. 3-4 , Rollo, pp. 434-435.

[71] Annexes "12" to "15" to Respondents' Comment, Rollo, pp. 361-363; Annexes "31" to "33" to Respondents' Comment, Rollo, pp. 324-326.

[72] Petition, p. 23, Rollo, p. 33.

[73] VOS transactions were later governed by A .O. No. 9, Series of 1990, and A. O. No. 1, Series of 1993--both also covering lands subject to Compulsory Acquisition.

[74] Section 5, E.O. 229.

[75] Annexes "42" and "43" to Comment, Rollo, pp. 372-374.

[76] Sur-rejoinder, p. 3.

[77] Annexes "39" and "40" to Comment, Rollo, pp. 369-370.

[78] Petition, p. 37, Rollo, p. 47.

[79] Petition, pp. 38-39, Rollo, pp. 48-49; Supplemental Manifestation, p. 3.

[80] Petition, p. 25, Rollo, p. 35; Annex "U" to the Petition, Rollo, p. 228.

[81] Annex "E" to Petition, Rollo, p. 124.

[82] Attached to Annex "E," Rollo, pp. 125-200.

[83] Id.83 Annex "F" to Petition, Rollo, p. 201.

[84] Annex "F" to Petition, Rollo, p. 201.

[85] [Manifestation, pp. 3-4; Supplemental Manifestation, p. 4.]

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[86] Manifestation, p. 4; Supplemental Manifestation, p. 5.

[87] Part II, DAR A. O. No. 7, Series of 1997.

[88] Prefatory Statement, DAR A. O. No. 7, Series of 1997.

[89] Part III, E, F, DAR A.O. No. 7, Series of 1997.

[90] Par. 3, C, Part VIII; Part XIV, DAR A. O. No. 7, Series of 1997.

[91] First Lepanto Ceramics, Inc. v. Court of Appeals, 253 SRA 552, 558 [1996]; Machete v. Court of Appeals, 250 SCRA 176, 182 [1995]; Vidad v. Regional Trial Court of Negros Oriental, 227 SCRA 271, 276 [1990].

[92] Motion for Intervention, pp. 1-5, Rollo, pp. 452-456.

[93] Id.

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