

THE HEIRS OF AURELIO REYES, PETITIONERS, VS. HON. ERNESTO D. GARILAO, AS THE SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, AND EXEQUIEL ROMAN, BASILIO NUÑEZ, ONOFRE LAVARIAS, ...

G.R. No. 136466. November 25, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a Petition for Review on Certiorari,[1] under Rule 45 of the Rules of Court, assailing the April 16, 1997 Decision[2] and December 2, 1998 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP 42847.

The facts of the case:

Petitioners are the registered co-owners of a parcel of land known as Lot No. 166 of the Cadastral survey of Orani, Bataan, consisting of an area of 99.1085 hectares and covered under Transfer Certificate of Title No. T-91171 of the Registry of Deeds of Bataan.[4] Particularly, the individual shares of petitioners are hereunder enumerated, thus:

1. Antonia Reyes (widow) 55.0602 has.
2. Cesar H. Reyes 5.5060 has.
3. Aurelio H. Reyes 5.5060 has.
4. Lourdes R. Mateo 5.5060 has.
5. Teresita H. Reyes 5.5060 has.
6. Gregorio H. Reyes 5.5060 has.
7. Carlos H. Reyes 5.5060 has.
8. Manuel H. Reyes 5.5060 has.
9. Maria Rosario R. Bartolome 5.5060 has.

99.1082 has.[5]

Said property was originally owned by the spouses Antonia Reyes and the late Aurelio Reyes (Aurelio), who died in January 21, 1972 (before the effectivity of Presidential Decree No 27).[6] Upon the death of Aurelio, said property passed by succession to petitioners, who divided the same as shown above.

On September 21, 1988, emancipation patents were issued to respondents as farmer-beneficiaries over the entire landholding in question.[7]

On August 2, 1993, petitioners lodged a petition for the cancellation of the emancipation patents issued to the respondents before the Department of Agrarian Reform Adjudication Board San Fernando, Pampanga, which is now pending and docketed as DARAB Case No. 118-BAT-93.[8]

Earlier, however, on July 15, 1993, petitioners filed with the Department of Agrarian Reform (DAR), Region III, San Fernando, Pampanga, their respective applications for retention^[9] over Lot No. 166, at five (5) hectares each, pursuant to Section 6^[10] of Republic Act No. 6657, or the Comprehensive Agrarian Reform Law of 1988 (RA No. 6657).^[11]

On October 25, 1994, the OIC-Regional Director issued an Order^[12] granting petitioners' applications for retention, the dispositive portion of which reads:

WHEREFORE, premises considered, an Order is hereby issued:

- GRANTING the Application for individual retention of the heirs of Aurelio P. Reyes with each heir to retain not more than five (5) hectares of their landholding at Barangay Mulawin, Orani, Bataan, which must be compact and contiguous;
- DIRECTING the said heirs to make the segregation of their retainable area at their own expense and to submit the result thereof to this Office;
- DIRECTING the parties concerned to initiate the cancellation of emancipation patent(s), if any has (have) been issued over the retained landholding before the proper forum; and
- DIRECTING the DAR personnel concerned to make provisions for the welfare of the affected farmer-beneficiaries, if any.

SO ORDERED.^[13]

On July 31, 1995, respondents appealed the October 25, 1994 Order of the OIC-Regional Director to the DAR Secretary. On November 30, 1996, the DAR Secretary issued an Order^[14] setting aside the Order of the Regional Director, the dispositive portion of which reads:

WHEREFORE, premises considered, Order is hereby issued setting aside the Order dated October 25, 1994. Consequently, the granting of applicants-appellees' individual retention rights is hereby revoked.
SO ORDERED.^[15]

The DAR Secretary found that each compulsory heir owns, aside from the 5.5060 has. representing their 1/9 share of the property in dispute, other landholdings presumably used either as residential, commercial, industrial or for other urban purposes located in Makati and Manila.^[16] The DAR Secretary further held that landowners who own lands devoted to non-agricultural purposes are presumed to derive adequate income therefrom to support themselves and their families.^[17] Accordingly, the DAR Secretary denied the applications for exemption of petitioners pursuant to DAR Administrative Order No. 4, series of 1991.^[18]

Aggrieved by the Order of the DAR Secretary, petitioners sought to assail the same via a petition for review before the CA. On April 16, 1997, the CA rendered a Decision^[19] ruling in favor of respondents, the dispositive portion of which reads:

WHEREFORE, the petition for review is DISMISSED for lack of merit.

SO ORDERED.^[20]

The CA ruled that Administrative Order No. 4, series of 1991, and Letter of Instruction (LOI) No. 474 restricts the right of retention of landowners, in the wise:

Petitioners' land has been subjected to land reform under P.D. No. 27. On September 21, 1988, emancipation patents were issued over the subject land in favor of farmer-beneficiaries. Petitioners filed their individual applications for retention of their share in the subject land only on July 15, 1993, after the effectivity of R.A.

No. 6657. Thus, the provisions of R.A. No. 6657 shall govern petitioner's exercise of their right of retention. Section 6 of R.A. No. 6657 provides that "landowners whose lands have been covered by P.D. No. 27 shall be allowed to keep the area originally retained by them thereunder." Since petitioners did not exercise their right of retention under P.D. No. 27, the provisions of R.A. No. 6657 on retention limit shall govern. However, since LOI No. 474 and Administrative Order No. 4, series of 1991, restricts the right of retention of landowners, in the sense that those who own other non-agricultural lands and derive adequate income therefrom have no right of retention, the said restriction should be applied to herein petitioner.[21]

Moreover, the CA upheld the finding of the DAR Secretary, that in addition to the share of petitioners in the land subject of herein petition, petitioners have other landholdings presumably used either as residential, commercial, industrial, or for other urban purposes located in Makati and Manila.[22] Hence, the CA concluded that petitioners were not entitled to exercise their retention rights as a result of the restrictions contained in Administrative Order No. 4, series of 1991, as well as LOI No. 474.

Petitioners then filed a Motion for Reconsideration, which was, however, denied by the CA in a Resolution[23] dated December 2, 1998.

Hence, herein petition, with petitioners raising the following grounds in support of the petition, to wit:

A.

PETITIONERS' RIGHT TO RETENTION OF PORTIONS OF THEIR LANDHOLDINGS IS NOT FORECLOSED BY ANY VESTED RIGHT THAT PRIVATE RESPONDENTS MAY CLAIM.

B.

LOI NO. 474 DATED OCTOBER 21, 1976 HAS BEEN REPEALED BY REP. ACT NO. 6657, HENCE, THE RESTRICTIVE CONDITIONS IN THE EARLIER LAW SHOULD NOT BE APPLIED TO PETITIONERS' EXERCISE OF THEIR RETENTION RIGHTS UNDER THE LATTER LAW.

C.

DEPARTMENT OF AGRARIAN REFORM ADMINISTRATIVE ORDER NO. 04, SERIES OF 1991, HAS THEREFORE NO STATUTORY BASIS INSOFAR AS RETENTION RIGHTS UNDER REPUBLIC ACT NO. 6657 ARE CONCERNED. SAID ISSUANCE APPLIES ONLY TO RETENTION RIGHTS OF (7) HECTARES UNDER PRESIDENTIAL DECREE NO. 27.[24]

The petition is not meritorious.

At the crux of the controversy is the determination of the applicability of the restrictive conditions found in LOI No. 474 to RA No. 6657.

In order to understand the case at bar, this Court shall hereunder discuss the various laws and administrative order pertinent to herein petition and their relation to one another.

Presidential Decree No. 27 (PD No. 27),[25] issued on October 21, 1972 by then President Ferdinand E. Marcos, proclaimed the entire country as a "land reform area" and decreed the emancipation of tenants from the bondage of the soil, transferring to them the ownership of the land they till. To achieve its purpose, the decree laid down a system for the purchase by tenant-farmers, long recognized as the backbone of the economy, of the lands they were tilling. Owners of rice and corn lands that exceeded the minimum retention area were bound to sell their lands to qualified farmers at liberal terms and subject to conditions.[26]

More importantly, PD No. 27 also provides that, "in all cases, the landowner may retain an area not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it."

Meanwhile, on October 21, 1976, then President Marcos, issued LOI No. 474, addressed to the Secretary of Agrarian Reform, the pertinent portions of which read:

To: The Secretary of Agrarian Reform.

WHEREAS, last year I ordered that small landowners of tenanted rice/corn lands with areas of less than twenty-four hectares but above seven hectares shall retain not more than seven hectares of such lands except when they own other agricultural lands containing more than seven hectares or land used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families;

WHEREAS, the Department of Agrarian Reform found that in the course of implementing my directive there are many landowners of tenanted rice/corn lands with areas of seven hectares or less who also own other agricultural lands containing more than seven hectares or lands used for residential, commercial, industrial or other urban purposes where they derive adequate income to support themselves and their families;

WHEREAS, it is therefore necessary to cover said lands under the Land Transfer Program of the government to emancipate the tenant-farmers therein.

NOW, THEREFORE, I, PRESIDENT FERDINAND E. MARCOS, President of the Philippines, do hereby order the following:

"1. You shall undertake to place under the Land Transfer Program of the government pursuant to Presidential Decree No. 27, all tenanted rice/corn lands with areas of seven hectares or less belonging to landowners who own other agricultural lands of more than seven hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families."[27]

LOI No. 474, thus, amended PD No. 27 by removing "any right of retention from persons who own other agricultural lands of more than 7 hectares, or lands used for residential, commercial, industrial or other purposes from which they derive adequate income to support themselves and their families."[28]

After Martial Law, on June 10, 1988, Congress, under the leadership of then President Corazon Aquino passed RA No. 6657[29] or the Comprehensive Agrarian Reform Law. Of importance is Section 6 which provides for the right of retention of landowners, to wit:

SEC. 6. Retention Limits. - Except as otherwise provided in this Act, no person may own or retain, directly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall the retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: Provided, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder; Provided, further, That original homestead grantees or direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

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.

In all cases, the security of tenure of the farmers or farm workers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void: Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act . Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.[30]

As can be observed, Section 6 of RA No. 6657, while providing for a right of retention of five hectares, does not prescribe the limitation or conditions provided for in LOI No. 474.

Soon after, Administrative Order No. 4, series of 1991, was issued by the Secretary of the Department of Agrarian Reform, the pertinent portions of which read:

B. Policy Statements.

1. Landowners covered by P.D. 27 are entitled to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). An owner of tenanted rice and corn lands may not retain these lands under the following cases:

a. If he, as of 21 October 1972, owned more than 24 hectares of tenanted rice and corn lands; or by virtue of LOI 474, if he, as of 21 October 1976, owned less than 24 hectares of tenanted rice or corn lands, but additionally owned the following:

- Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or
- Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family.[31]

Based on the foregoing, petitioners anchor herein petition on their observation that Section 6 of RA No. 6657 does not provide for the limitation or exception to the exercise of retention rights previously found in LOI No. 474. Petitioners, thus, posit that those parts of the section amended, which are omitted in the amendments, are deemed repealed.[32] Likewise, petitioners contend that LOI No. 474 is inconsistent with the provisions of RA No. 6657 and was therefore repealed by the latter.[33]

After a judicious examination of the laws and relevant jurisprudence to the case at bar, this Court holds that petitioner's positions are without merit.

LOI No. 474 provides for a restrictive condition on the exercise of the right of retention, specifically disqualifying landowners who "own other agricultural lands of more than seven hectares in aggregate areas, or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families." Said condition is essentially the same one contained in Administrative Order No. 4, series of 1991.

In *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*,[34] this Court upheld the validity of LOI No. 474, in the wise:

The Court wryly observes that during the past dictatorship, every presidential issuance, by whatever name it was called, had the force and effect of law because it came from President Marcos. Such are the ways of despots. Hence, it is futile to argue, as petitioners do in G.R. No. 79744, that LOI 474 could not have repealed P.D. No. 27 because the former was only a letter of instruction. The important thing is that it was issued by President Marcos, whose word was law during the time.

Petitioners, however, argue that RA No. 6657 has impliedly repealed LOI No. 474 on the theory that the latter is inconsistent with the former. Consequently, petitioners contend that Administrative Order No. 4, series of 1991 has no statutory basis.

This Court cannot subscribe to petitioners' view. This Court is guided by *Social Justice Society v. Atienza Jr.*,^[35] wherein the operation of implied repeals was extensively discussed, to wit:

Repeal by implication proceeds on the premise that where a statute of later date clearly reveals the intention of the legislature to abrogate a prior act on the subject, that intention must be given effect.

There are two kinds of implied repeal. The first is: where the provisions in the two acts on the same subject matter are irreconcilably contradictory, the latter act, to the extent of the conflict, constitutes an implied repeal of the earlier one. The second is: if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law. The oil companies argue that the situation here falls under the first category.

Implied repeals are not favored and will not be so declared unless the intent of the legislators is manifest. As statutes and ordinances are presumed to be passed only after careful deliberation and with knowledge of all existing ones on the subject, it follows that, in passing a law, the legislature did not intend to interfere with or abrogate a former law relating to the same subject matter. If the intent to repeal is not clear, the later act should be construed as a continuation of, and not a substitute for, the earlier act.^[36]

Based on the foregoing, this Court disagrees with the theory advanced by petitioners that RA No. 6657 has impliedly repealed LOI No. 474. The congressional deliberations^[37] cited by petitioners are insufficient to indicate an intent to repeal LOI No. 474. A perusal thereof shows that said deliberations were confined only to the matter of retention limits (i.e., 3, 5 or 7 hectares), and no mention was made of the restrictive conditions found in LOI No. 474. As a matter of fact, what is clear from said deliberations is that the framers of RA No. 6657 had intended to distribute more lands.^[38]

While both laws may have the same subject matter, i.e. agrarian reform and its mechanism, if there is no intent to repeal the earlier enactment, every effort at a reasonable construction must be made to reconcile the statutes, so that both can be given effect.^[39]

To stress, RA No. 6657 is a social justice and poverty alleviation program which seeks to empower the lives of agrarian reform beneficiaries through equitable distribution and ownership of the land based on the principle of land to the tiller. RA No.6657, however, allows landowners to retain five hectares of their landholding. LOI No. 474, on the other hand, imposes restrictive conditions on the exercise of the right of retention by mandating that landowners who possess other lands used for residential, commercial, industrial, or other urban purposes, from which they derive adequate income to support themselves and their families are disqualified from exercising their right of retention.

Respondents, in their Comment,^[40] argue that LOI No. 474 partakes of a special law, while RA No. 6657 is a general law, to wit:

It will be noted that LOI No. 474, as implemented by Administrative Order No. 04, Series of 1991, partakes of a special law specifically governing the acquisition of "all tenanted rice/corn lands with [an] area of seven

hectares or less belonging to landowners who own other agricultural lands of more than seven hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families" under the Land Transfer Program of the government pursuant to Presidential Decree No. 27. x x x

On the other hand, Section 6 of R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, merely provides, in relations to lands retained by the landowners under P.D. No. 27, that "landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder." R.A. No. 6657 does not govern nor provide for the manner and conditions by which the right of retention of landowners of rice/corn lands may be exercised. It is, therefore, a general law covering "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. x x x[41]

Respondents also contend that both laws are complementary to each other such that while RA No. 6657 does not provide for the mechanism for the exercise of the right of retention of landowners under PD No. 27, LOI No. 474, as implemented by DAR Administrative Order No. 4, series of 1991, supplies that mechanism.[42] Lastly, respondents argue that as between a general law (R.A. No. 6657) and a special law (LOI No. 474), there is no dispute that the latter shall prevail.[43]

The position of respondents is well-taken. It is a well-settled rule in statutory construction that a subsequent general law does not repeal a prior special law on the same subject matter unless it clearly appears that the legislature has intended by the latter general act to modify or repeal the earlier special law.[44] Generalia specialibus non derogant (a general law does not nullify a specific or special law).[45] This is so even if the provisions of the general law are sufficiently comprehensive to include what was set forth in the special act.[46] Moreover, the special act and the general law must stand together, one as the law of the particular subject and the other as the law of general application.[47]

There is no conflict between RA No. 6675 and LOI No. 474 as both can be given a reasonable construction so as to give them effect. The suppletory application of laws is sanctioned under Section 75 of RA No. 6675, to wit:

SEC. 75. Suppletory Application of Existing Legislation. - The provisions of Republic Act Number 3844, as amended, Presidential Decree Numbers 27 and 266 as amended, Executive Order Numbers 228 and 229, both Series of 1987, and other laws not inconsistent with this Act shall have suppletory effect.

Withal, this Court concludes that while RA No. 6675 is the law of general application, LOI No. 474 may still be applied to the latter. Hence, landowners under RA No. 6675 are entitled to retain five hectares of their landholding; however, if they too own other "lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families," they are disqualified from exercising their right of retention.

For the same reasons previously discussed, this Court cannot subscribe to petitioners' view that Section 76,[48] or the Repealing Clause of RA No. 6675, has repealed LOI No. 474.

Anent petitioners' claim that Administrative Order No. 4, series of 1991, has no statutory basis, the same is without merit.

It is a general rule that the power of administrative officials to promulgate rules and regulations in the implementation of a statute is necessarily limited only to carrying into effect what is provided in the legislative enactment.[49] Furthermore, it is an elementary rule in administrative law that administrative regulations and policies enacted by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great weight and respect.[50] Since the validity of LOI No. 474 and its suppletory

application to RA No. 6675 has been settled, it is clear that Administrative Order No. 4, series of 1991, is valid as it is merely a reiteration of LOI No. 474.

Lastly, petitioners contend that even on the assumption that Administrative Order No. 4 or even LOI No. 474, may be applied to the retention rights under RA No. 6657, still there is no substantial evidence to support the finding of respondent Secretary that petitioners own other lands devoted to non-agricultural uses from which they derived adequate income to support their family.[51]

On this point, the DAR Secretary made the following findings, to wit:

Be that as it may, records however disclosed that Antonia Reyes, the surviving spouse, owned 55.0602 has. tenanted riceland as of October 21, 1972 representing her $\frac{1}{2}$ and $\frac{1}{9}$ shares of the landholding in question. Records further show that each compulsory heir owns, aside from the 5.5060 has. representing their $\frac{1}{9}$ share of the said property, other landholdings presumably used either as residential, commercial, industrial, or for other urban purposes located at Makati and Manila (See: Petition for Approval of Amended Project of Partition dated July 9, 1975).[52]

Said findings were also made by the CA as its basis in affirming the decision of the DAR Secretary. The same is a question of fact which cannot be the subject of herein petition.[53] More importantly, the findings of the DAR are accorded not only respect but even finality by this Court, because it has acquired the necessary expertise on the matter.[54] Said findings appear to be supported by substantial evidence which is all that is required in agrarian cases.[55] Hence, this Court finds no reason to disturb said findings of the Secretary.

Given the foregoing, it would be unnecessary to discuss the first issue raised by petitioners as the same is immaterial, considering this Court's ruling that LOI No. 474 applies suppletorily to RA No. 6675.

WHEREFORE, premises considered, the petition is denied. The April 16, 1997 Decision and December 2, 1998 Resolution of the Court of Appeals in CA-G.R. SP No. 42847 are hereby AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Rollo, pp. 10-50.

[2] Penned by Associate Justice Oswaldo D. Agcaoili, with Associate Justices Jaime M. Lantin and Buenaventura J. Guerrero, concurring; id. at 53-62.

[3] Id. at 64.

[4] Id. at 66.

[5] Id.

[6] Id.

[7] Id.

[8] Id. at 54.

[9] Annexes E-1 to E-8; id. at 74-81.

[10] SEC. 6. Retention Limits. - Except as otherwise provided in this Act, no person may own or retain, directly, any public or private agricultural land, the size of which shall vary according to factors governing a viable

family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall the retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: Provided, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder; Provided, further, That original homestead grantees or direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

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.

In all cases, the security of tenure of the farmers or farm workers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void: Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

[11] Rollo, p. 67.

[12] Id. at 71-73.

[13] Id. at 72-73.

[14] Id. at 65-70.

[15] Id. at 69.

[16] Id. at 68.

[17] Id. at 69.

[18] B. Policy Statements.

1. Landowners covered by P.D. 27 are entitled to retain to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). An owner of tenanted rice and corn lands may not retain these lands under the following cases:

a. If he as of 21 October 1972 owned more than 24 hectares of tenanted rice and corn lands; or by virtue of LOI 474, if he has of 21 October 1976 owned less than 24 hectares of tenanted rice or corn lands but additionally owned the following:

- Other agricultural lands of more than seven hectares, whether tenanted or not, and regardless of the income derived therefore; or

- Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family.

[19] Rollo, pp. 53-62.

[20] Id. at 62.

[21] Id. at 61. (Emphasis supplied.)

[22] Id.

[23] Id. at 64.

[24] Id. at 22-23.

[25] "Decreeing the Emancipation of Tenants from the Bondage of the Soil Transferring to Them the Ownership of the Land they Till and Providing the Instruments and Mechanism therefore."

[26] *Pagtalunan v. Tamayo*, G.R. No. 54281, March 19, 1990, 183 SCRA 252, 258.

[27] Emphasis Supplied.

[28] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343, 362.

[29] "An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its Implementation, and For Other Purposes."

[30] Emphasis Supplied.

[31] Rollo, pp. 58-59. See http://www.dar.gov.ph/pdf_files/issuance_91/ao04_91.pdf; last visited October 31, 2009; (Emphasis supplied.)

[32] Rollo, p. 32.

[33] Id. at 38.

[34] *Supra* note 28, at 368-369.

[35] G.R. No. 156052, February 13, 2008, 545 SCRA 92.

[36] Id. at 129-130.

[37] Rep. Jose Roño: "In other words, what we want to conceive in this specific provision of the House is the hectareage that a small landowner as of right may retain and that must be respected. So that it cannot be anywhere between one hectare to seven hectares depending on what PARCOM or other administrative agencies decide because in effect, we are abdicating legislative authority to administrative bodies. In other words, it should be Congress that should decide what is the retention limit"; October 6, 1987, 4:48p.m. deliberation of House Bill No. 400; (Rollo, p. 34.)

Senator Aquino: "Yes, well, maybe, to clarify to everybody, we are talking here of the retention limits to be retained by the former landowners xxx. I am asking for the basis of the seven (7) hectares, because as far back as I can remember, this has only been the favorite number of the previous regime. That is the reason they chose seven. But there is no scientific, technical or economic basis for seven hectares. And that is the reason why in searching for an economically viable family-size plot, all farmers we have talked to, including the Gentleman, seem to agree that three hectares is economically viable for after all that is also the Gentleman's award ceiling for beneficiaries";

January 27, 1988; (Rollo, p. 36.)

[38] Rep. Lagman: "Finally, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands, House Bill No. 400 would, if enacted into law, put to efficacy all theses constitutional mandates and principles. But I would limit my statement this afternoon to two controversial issues related to agrarian reform which are retention limits and priorities. On retention limit, Mr. Speaker, honorable colleagues, let us legislate on it consistent with social justice and distributive justice. Let us legislate on a retention limit which would maximize the land for coverage and the number of beneficiaries of agrarian reforms"; March 9, 1988: (Rollo, p. 35.)

Senator Aquino: "So, anyway, to summarize, on this retention limit, while we are proposing three hectares which, right now covers already 69% of all farms in the Philippines, if we move up to seven hectares' retention limit, we will be touching only six per cent of all farms. And as far as the area is covered, we were interested in the distribution of 70 per cent of agricultural land in the Philippines to make this a truly comprehensive agrarian reform program."

"If, however, we stick to the Gentleman's seven hectares, then we will only be distributing 32% of agricultural land"; January 27, 1988 Deliberations: (Rollo pp. 36-37.)

[39] Social Justice Society (SJS) v. Atienza, Jr., *supra* note 35, at 131.

[40] Rollo, pp. 152-162.

[41] *Id.* at 157-158.

[42] *Id.* at 158.

[43] *Id.*

[44] Emphasis and underscoring supplied.

[45] Social Justice Society v. Atienza Jr., *supra* note 35, at 132, citing *Leynes v. Commission on Audit*, 418 SCRA 180, 196 (2003).

[46] *Id.*

[47] *Id.*, citing *Philippine National Oil Company v. Court of Appeals*, 457 SCRA 32, 80 (2005).

[48] SEC. 76. Repealing Clause. - Section 35 of Republic Act Number 3844, Presidential Decree Number 316, the last two paragraphs of Section 12 of Presidential Decree Number 1038, and all other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

[49] See *United States v. Barias*, 11 Phil. 327. (1908)

[50] *Rizal Empire Insurance Group v. NLRC*, No. L- 73140, May 29, 1987, 150 SCRA 565, 568-569.

[51] Rollo, p. 44.

[52] *Id.* at 68.

[53] See *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, April 28, 2004, 428 SCRA 79.

[54] *Machete v. Court of Appeals*, G.R. No. 109093, November 20, 1995, 250 SCRA 176, 183.

[55] Castro v. Court of Appeals, G.R. No. 34613, January 26, 1989, 169 SCRA 383, 389.

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