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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REMIGIO D. ESPIRITU AND NOEL AGUSTIN, Petitioners,	**G.R. No. 204964** Present:
-versus-	CARPIO, *J., Chairperson,* DEL CASTILLO, MENDOZA, REYES,* and LEONEN, *JJ.*
LUTGARDA TORRES DEL ROSARIO represented by SYLVIA R. ASPERILLA, Respondents.	**Promulgated:** OCT 15 2014

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DECISION

LEONEN, *J.*:

Lands classified as non-agricultural in zoning ordinances approved by the Housing and Land Use Regulatory Board or its predecessors prior to June 15, 1998 are outside the coverage of the compulsory acquisition program of the Comprehensive Agrarian Reform Law. However, there has to be substantial evidence to prove that lands sought to be exempted fall within the non-agricultural classification.

This is a petition for review on certiorari[1] seeking to set aside the decision[2] dated September 28, 2012 and resolution[3] dated November 29,

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* Designated acting member per Special Order No. 1844 dated October 14, 2014.

1 *Rollo*, pp. 8–21.

2 Id. at 26–42. The decision was penned by Associate Justice Ricardo R. Rosario and concurred in by

2012 of the Court of Appeals. These orders reinstated the order[4] dated February 19, 2004 of then Secretary of Agrarian Reform Roberto M. Pagdanganan approving petitioner's application for exemption.

The pertinent facts are as follows:

In 1978, the City Council of Angeles City, Pampanga, enacted Zoning Ordinance No. 13, Series of 1978, classifying areas in Barangay Margot and Barangay Sapang Bato, Angeles City, as agricultural land.[5]

Pursuant to this ordinance, Lutgarda Torres del Rosario (del Rosario) allegedly requested the City Zoning Administrator to exempt from the zoning classification Lot Nos. 854 and 855 located in Barangay Margot and Barangay Sapang Bato, Angeles City.[6] The land is covered by Transfer Certificate of Title No. T-11809 with an area of 164.7605 hectares.[7] The request was allegedly approved on March 7, 1980 by Engineer Roque L. Dungca, Angeles City Development Coordinator/Zoning Administrator, and the lots were allegedly reclassified as non-agricultural or industrial lots.[8]

On June 10, 1988, the Comprehensive Agrarian Reform Law (Republic Act No. 6657) was enacted.

On October 10, 2000, del Rosario, through her representative Sylvia R. Asperilla (Asperilla), filed an application for exemption with the Department of Agrarian Reform, seeking to exempt Lot Nos. 854 and 855 from the Comprehensive Agrarian Reform Program (CARP) coverage.[9]

On February 19, 2004, then Secretary of Agrarian Reform Roberto M. Pagdanganan (Secretary Pagdanganan) issued an order granting the application for exemption. Citing Department of Justice Opinion No. 44, Series of 1990, Secretary Pagdanganan stated that lands classified as non-agricultural before the enactment of CARP are beyond its coverage.[10]

On March 26, 2004, farmers in del Rosario's landholdings, led by

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Division.

3 Id. at 44. The resolution was penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Rosmari D. Carandang (Chairperson) and Leoncia Real-Dimagiba of the Fifth Division.

4 Id. at 47–52.

5 Id. at 27 and 77.

6 Id. at 27.

7 Id. at 47.

8 Id. at 27.

9 Id. at 45.

10 Id. at 49–50.

Remigio Espiritu (Espiritu), filed a motion for reconsideration[11] of the order. They argued that under Zoning Ordinance No. 13, Series of 1978, Housing and Land Use Regulatory Board Resolution No. 705, Series of 2001, and Angeles City Council Resolution No. 3300, Series of 2001, the landholdings were classified as agricultural, not industrial.[12] They argued that as per certifications by the Housing and Land Use Regulatory Board dated June 1, 2001, May 28, 2001, and November 24, 2003, the landholdings were within the agricultural zone, and there was no zoning ordinance passed that reclassified the area into other land uses.[13]

The motion was given due course by the Department of Agrarian Reform, this time headed by Secretary Nasser C. Pangandaman (Secretary Pangandaman). Hence, on June 15, 2006, then Secretary Pangandaman issued an order[14] granting the motion for reconsideration and revoking the earlier order of then Secretary of Agrarian Reform Pagdanganan.

Del Rosario contended that this order was sent to her through Clarita Montgomery in Barangay Margot, Sapang Bato, Angeles City, and not at Asperilla's address in Cubao, Quezon City, which was her address on record. Del Rosario alleged that she only came to know of the order on January 26, 2007, when the Provincial Agrarian Reform Officer of Pampanga handed her a copy of the order.[15] She then filed her motion for reconsideration of the order dated June 15, 2006. The motion was dated February 9, 2007.[16]

Acting on del Rosario's motion for reconsideration, Secretary Pangandaman found that the certifications issued by the Housing and Land Use Regulatory Board classified the landholdings as agricultural before June 15, 1988.[17] Based on the ocular inspections conducted by the Center for Land Use Policy, Planning and Implementation (CLUPPI), the land remained agricultural and was planted with sugar cane and corn.[18] Accordingly, Secretary Pangandaman denied del Rosario's motion in the order[19] dated March 3, 2008.

Del Rosario filed a notice of appeal[20] before the Office of the President on March 27, 2008.

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11 Id. at 53–57.
12 Id. at 54.
13 Id. at 54–55.
14 Id. at 58–63.
15 Id. at 30–31.
16 Id. at 65.
17 Id. at 70–71.
18 Id. at 70.
19 Id. at 65–73.
20 Id. at 74–75.

On May 7, 2009, the Office of the President, through then Deputy Executive Secretary for Legal Affairs Manuel B. Gaite (Deputy Executive Secretary Gaite), rendered the decision[21] dismissing the appeal for lack of merit.

Del Rosario filed a motion for extension of 10 days to file her motion for reconsideration.[22] Citing Administrative Order No. 18, Series of 1987, and *Habaluyas Enterprises, Inc. v. Japzon*,[23] the Office of the President, through then Deputy Executive Secretary Natividad G. Dizon, denied the motion in the order[24] dated July 14, 2009.

Aggrieved, del Rosario filed a petition for review before the Court of Appeals arguing (1) that she was denied due process when the order of Secretary Pangandaman was "erroneously sent to another address"[25] and (2) that the decision of then Deputy Executive Secretary Gaite was void since he had been appointed to the Securities and Exchange Commission two months prior to the rendering of the decision.[26]

On September 28, 2012, the Court of Appeals rendered a decision granting the petition. The Court of Appeals stated that del Rosario was indeed prevented from participating in the proceedings that led to the issuance of Secretary Pangandaman's order when the notices were sent to her other address on record.[27] It also found that the decision issued by then Deputy Executive Secretary Gaite was void since it violated Article VII, Section 13 of the Constitution.[28] The dispositive portion of the decision states:

> ***WHEREFORE***, premises considered, the **PETITION** is **GRANTED**. The assailed Decision dated 07 May 2009, and the Order dated 15 June 2006 are hereby **SET ASIDE**. Perforce, with the nullity of the said Decision and Order, the ***Pagdanganan Order*** granting exemption to petitioner's land is **REINSTATED**.
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> ***SO ORDERED***.[29]

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21 Id. at 76–80.
22 Id. at 81.
23 222 Phil. 365 (1985) [Per J. Aquino, Second Division].
24 *Rollo*, pp. 81–82.
25 Id. at 31.
26 Id. at 33.
27 Id. at 31 and 37.
28 Id. at 38–39. CONST., art. VII, sec. 13 provides:
Section 13. The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.
. . . .
29 Id. at 41–42.

Their motion for reconsideration having been denied,[30] petitioners, namely Remigio Espiritu and Noel Agustin, now come before this court via a petition for review on certiorari, seeking to set aside the ruling of the Court of Appeals.

In particular, petitioners argue that respondent was not denied due process as she was able to actively participate in the proceedings before the Department of Agrarian Reform and the Office of the President.[31] They also argue that respondent was not able to present proof that Deputy Executive Secretary Gaite was not authorized to sign the decision and, hence, his action is presumed to have been done in the regular performance of duty.[32]

Respondent, on the other hand, argues that the Court of Appeals did not commit any reversible error in its decision. She argues that she was deprived of due process when Secretary Pangandaman's order was sent to the wrong address. She also argues that the Deputy Executive Secretary Gaite's decision was void since he had already been appointed to the Securities and Exchange Commission two months prior.[33]

The issue, therefore, before this court is whether the Court of Appeals correctly set aside the order of Secretary Pangandaman and the decision of Deputy Secretary Gaite and reinstated the order of Secretary Pagdanganan.

This petition should be granted.

Respondent was not deprived of due process

The Court of Appeals, in finding for respondent, stated that:

> Since she was not notified, [del Rosario] was not able to participate in the proceedings leading to the issuance of the Pangandaman Order. The absence of notice that resulted in the inability of [del Rosario] to be heard indubitably confirms her claim of lack of due process. [Del Rosario] indeed was denied her day in the administrative proceedings below. And considering that [del Rosario] was not accorded due process, the Pangandaman Order is void for lack of jurisdiction. Hence, contrary to respondents' submission, it could not attain finality.[34]

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30 Id. at 44.
31 Id. at 19.
32 Id. at 20.
33 Id. at 106–108.
34 Id. at 37.

The Court of Appeals, however, did not take into consideration that respondent was still able to file a motion for reconsideration of Secretary Pangandaman's order, albeit beyond the allowable period to file. In Department of Agrarian Reform Administrative Order No. 06,[35] Series of 2000:

> RULE III
> *Commencement, Investigation and Resolution of Cases*
>
> . . . .
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> SECTION 21. *Motion for Reconsideration*. — In case any of the parties disagrees with the decision or resolution, the affected party may file a written motion for reconsideration within fifteen (15) days from receipt of the order, furnishing a copy thereof to the adverse party. The filing of the motion for reconsideration shall suspend the running of the period to appeal.
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> Any party shall be allowed only one (1) motion for reconsideration. Thereafter, the RD or approving authority shall rule on the said motion within fifteen (15) days from receipt thereof. In the event that the motion is denied, the adverse party has the right to perfect his appeal within the remainder of the period to appeal, reckoned from receipt of the resolution of denial. *If the decision is reversed on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.* (Emphasis supplied)

Despite being filed late, Secretary Pangandaman still gave due course to the motion and resolved it on its merits. This is clear from his order dated March 3, 2008, which reads:

> During the 50th Special CLUPPI Committee-B Meeting, held on 18 December 2007, *the Motion for Reconsideration filed by Sylvia Espirilla [sic] was deliberated upon and the Committee recommended the DENIAL of the Motion for Reconsideration* based on the following grounds:
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> - The certifications issued by the HLURB shows that the subject properties were classified as agricultural before 15 June 1986 [sic]; and
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> - Based on the ocular inspection conducted by the CLUPPI Inspection Team, it was found out that the area remained agricultural. In fact, it [is] still dominantly planted with sugar cane and corn.[36] (Emphasis supplied)

While it may be true that respondent was prevented from filing a *timely* motion for reconsideration of Secretary Pangandaman's order, it would be erroneous to conclude that she had been completely denied her

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35 Rules of Procedure for Agrarian Law Implementation (ALI) cases.

36 *Rollo*, p. 70.

opportunity to be heard. In *Department of Agrarian Reform v. Samson*:[37]

> . . . . *In administrative proceedings, a fair and reasonable opportunity to explain one's side suffices to meet the requirements of due process.* In *Casimiro v. Tandog*, the Court held:
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> > *The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.* In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. *Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.*
> >
> > In administrative proceedings, procedural due process has been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; (2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights; (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as impartiality; and (4) a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.[38] (Emphasis supplied)

When respondent filed her motion for reconsideration assailing Secretary Pangandaman's order, she was able to completely and exhaustively present her arguments. The denial of her motion was on the basis of the merits of her arguments and any other evidence she was able to present. She was given a fair and reasonable opportunity to present her side; hence, there was no deprivation of due process.

It was also erroneous to conclude that respondent was "denied her day in the administrative proceedings below."[39] Respondent was able to actively participate not only in the proceedings before the Department of Agrarian Reform, but also on appeal to the Office of the President and the Court of Appeals.

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37 577 Phil. 370 (2008) [Per J. Ynares-Santiago, Third Division].

38 Id. at 380, *citing Autencio v. City Administrator Mañara and the City of Cotabato*, 489 Phil. 752, 760 (2005) [Per J. Panganiban, Third Division] and *Casimiro v. Tandog*, 498 Phil. 660, 666–667 (2005) [Per J. Chico-Nazario, Second Division].

39 *Rollo*, p. 37.

Deputy Executive Secretary Gaite's decision is presumed valid, effective, and binding

Article VII, Section 13 of the Constitution states:

> Section 13. *The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure.* They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.
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> . . . . (Emphasis supplied)

It is alleged that Gaite was appointed Commissioner to the Securities and Exchange Commission on March 16, 2009.[40] It is also alleged that he has already lost his authority as Deputy Executive Secretary for Legal Affairs when he rendered the decision dated May 7, 2009 since he is constitutionally prohibited from holding two offices during his tenure. This, however, is not conclusive since no evidence was presented as to when he accepted the appointment, took his oath of office, or assumed the position.

Assuming that Gaite's appointment became effective on March 16, 2009, he can be considered a *de facto* officer at the time he rendered the decision dated May 7, 2009.

In *Funa v. Agra*,[41] a petition was filed against Alberto Agra for holding concurrent positions as the acting Secretary of Justice and as Solicitor General. This court, while ruling that the appointment of Alberto Agra as acting Secretary of Justice violated Article VII, Section 13 of the Constitution, held that he was a *de facto* officer during his tenure in the Department of Justice:

> A *de facto* officer is one who derives his appointment from one having colorable authority to appoint, if the office is an appointive office, and whose appointment is valid on its face. He may also be one who is in possession of an office, and is discharging its duties under color of authority, by which is meant authority derived from an appointment, however irregular or informal, so that the incumbent is not a mere

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40 *See Meet the Management*, <http://www.sec.gov.ph/aboutsec/management.html> (visited September 15, 2014).

41 G.R. No. 191644, February 19, 2013, 691 SCRA 196 [Per J. Bersamin, En Banc].

> volunteer. Consequently, *the acts of the de facto officer are just as valid for all purposes as those of a de jure officer, in so far as the public or third persons who are interested therein are concerned.*
>
> In order to be clear, therefore, the Court holds that *all official actions of Agra as a de facto Acting Secretary of Justice, assuming that was his later designation, were presumed valid, binding and effective as if he was the officer legally appointed and qualified for the office. This clarification is necessary in order to protect the sanctity of the dealings by the public with persons whose ostensible authority emanates from the State.* Agra's official actions covered by this clarification extend to but are not limited to the promulgation of resolutions on petitions for review filed in the Department of Justice, and the issuance of department orders, memoranda and circulars relative to the prosecution of criminal cases.[42] (Emphasis supplied)

Assuming that Gaite was a *de facto* officer of the Office of the President after his appointment to the Securities and Exchange Commission, any decision he renders during this time is presumed to be valid, binding, and effective.

With Gaite being a public officer, his acts also enjoy the presumption of regularity, thus:

> The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. *The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption in [sic] rebutted, it becomes conclusive.* Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.[43] (Emphasis supplied)

Respondent has not presented evidence showing that the decision was rendered *ultra vires*, other than her allegation that Gaite had already been appointed to another office. Unless there is clear and convincing evidence to the contrary, the decision dated May 7, 2009 is conclusively presumed to have been rendered in the regular course of business.

Respondent's landholdings were agricultural, not industrial

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[42] Id. at 224, *citing Dimaandal v. Commission on Audit*, 353 Phil. 525, 533–534 (1998) [Per J. Martinez, En Banc]; *Civil Service Commission v. Joson, Jr.*, G.R. No. 154674, May 27, 2004, 429 SCRA 773, 786 [Per J. Callejo, Sr., En Banc]; *Topacio v. Ong*, 595 Phil. 491, 506 (2008) [Per J. Carpio Morales, En Banc]*; Señeres v. Commission on Elections*, 603 Phil. 552, 569 (2009) [Per J. Velasco, Jr., En Banc].

[43] *Bustillo v. People*, G.R. No. 160718, May 12, 2010, 620 SCRA 483, 492 [Per J. Del Castillo, Second Division], *citing People v. De Guzman*, G.R. No. 106025, February 9, 1994, 229 SCRA 795, 799 [Per J. Puno, Second Division].

Prior to the enactment of Republic Act No. 6657, lands were classified into agricultural, residential, or industrial by law or by zoning ordinances enacted by local government units. In *Heirs of Luna v. Afable*:[44]

> *It is undeniable that local governments have the power to reclassify agricultural into non-agricultural lands. Section 3 of RA No. 2264 (The Local Autonomy Act of 1959) specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission.* By virtue of a zoning ordinance, the local legislature may arrange, prescribe, define, and apportion the land within its political jurisdiction into specific uses based not only on the present, but also on the future projection of needs. It may, therefore, be reasonably presumed that when city and municipal boards and councils approved an ordinance delineating an area or district in their cities or municipalities as residential, commercial, or industrial zone pursuant to the power granted to them under Section 3 of the Local Autonomy Act of 1959, they were, at the same time, reclassifying any agricultural lands within the zone for non-agricultural use; hence, ensuring the implementation of and compliance with their zoning ordinances.[45] (Emphasis supplied)

Republic Act No. 6657 became effective on June 15, 1988, and it covered all public and private lands, including lands of the public domain suited for agriculture.[46] Upon its enactment, questions arose as to the authority of the Department of Agrarian Reform to approve or disapprove applications for conversion of agricultural land to non-agricultural. Then Agrarian Reform Secretary Florencio B. Abad (Secretary Abad) was of the opinion that laws prior to Republic Act No. 6657 authorized the Department of Agrarian Reform, together with the Department of Local Government and Community Development and the Human Settlements Commission, to allow or disallow conversions. In response to Secretary Abad's query, the Department of Justice issued Opinion No. 44 on March 16, 1990, written by then Secretary of Justice Franklin M. Drilon. The opinion, reproduced in full, states:

> **S i r :**
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> This refers to your letter of the 13th instant stating your "position that prior to the passage of R.A. 6657, the Department of Agrarian Reform had the authority to classify and declare which agricultural lands are suitable for non-agricultural purposes, and to approve or disapprove applications for conversion from agricultural to non-agricultural uses."

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44 G.R. No. 188299, January 23, 2013, 689 SCRA 207 [Per J. Perez, Second Division].

45 Id. at 226–227, *citing Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, G.R. No. 169913, June 8, 2011, 651 SCRA 352, 376 [Per J. Velasco, Jr., First Division]; *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals*, 473 Phil. 64, 94 (2004) [Per J. Callejo, Sr., Second Division]; *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, G.R. No. 131481, March 16, 2011, 645 SCRA 401, 432 [Per J. Leonardo-De Castro, First Division].

46 Rep. Act No. 6657 (1988), sec. 4.

In support of the foregoing view, you contend that under R.A. No. 3844, as amended, the Department of Agrarian Reform (DAR) is empowered to "determine and declare an agricultural land to be suited for residential, commercial, industrial or some other urban purpose" and to "convert agricultural land from agricultural to non-agricultural purposes"; that P.D. No. 583, as amended by P.D. No. 815 "affirms that the conversion of agricultural lands shall be allowed only upon previous authorization of the [DAR]; with respect to tenanted rice and corn lands"; that a Memorandum of Agreement dated May 13, 1977 between the DAR, the Department of Local Government and Community Development and the then Human Settlements Commission "further affirms the authority of the [DAR] to allow or disallow conversion of agricultural lands"; that E.O. No. 129-A expressly invests the DAR with exclusive authority to approve or disapprove conversion of agricultural lands for residential, commercial, industrial and other land uses'; and that while in the final version of House Bill 400, Section 9 thereof provided that lands devoted to "residential, housing, commercial and industrial sites classified as such by the municipal and city development councils as already approved by the Housing and Land Use Regulatory Board, in their respective zoning development plans" be exempted from the coverage of the Agrarian Reform program, this clause was deleted from Section 10 of the final version of the consolidated bill stating the exemptions from the coverage of the Comprehensive Agrarian Reform Program.

We take it that your query has been prompted by the study previously made by this Department for Executive Secretary Catalino Macaraig Jr. and Secretary Vicente Jayme (Memorandum dated February 14, 1990) which upheld the authority of the DAR to authorize conversions of agricultural lands to non-agricultural uses as of June 15, 1988, the date of effectivity of the Comprehensive Agrarian Reform Law (R.A. No. 6657). [I]t is your position that the authority of DAR to authorize such conversion existed even prior to June 15, 1988 or as early as 1963 under the Agricultural Land Reform Code (R.A. No. 3844; as amended).

It should be made clear at the outset that the aforementioned study of this Department was based on facts and issues arising from the implementation of the Comprehensive Agrarian Reform Program (CARP). *While there is no specific and express authority given to DAR in the CARP law to approve or disapprove conversion of agricultural lands to non-agricultural uses, because Section 65 only refers to conversions effected after five years from date of the award, we opined that the authority of the DAR to approve or disapprove conversions of agricultural lands to non-agricultural uses applies only to conversions made on or after June 15, 1988, the date of effectivity of R.A. No. 6657, solely on the basis of our interpretation of DAR's mandate and the comprehensive coverage of the land reform program. Thus, we said:*

> "*Being vested with exclusive original jurisdiction over all matters involving the implementation of agrarian reform, it is believed to be the agrarian reform law's intention that any conversion of a private agricultural land to non-agricultural uses should be cleared beforehand by the DAR. True, the DAR's express power over land use conversion is limited to cases in which agricultural lands already awarded have, after five years, ceased to be*

> *economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes. But to suggest that these are the only instances when the DAR can require conversion clearances would open a loophole in the R.A. No. 6657, which every landowner may use to evade compliance with the agrarian reform program. Hence, it should logically follow from the said department's express duty and function to execute and enforce the said statute that any reclassification of a private land as a residential, commercial or industrial property should first be cleared by the DAR."*

It is conceded that under the laws in force prior to the enactment and effective date of R.A. No. 6657, the DAR had likewise the authority, to authorize conversions of agricultural lands to other uses, but always in coordination with other concerned agencies. Under R.A. No. 3344, as amended by R.A. No. 6389, an agricultural lessee may, by order of the court, be dispossessed of his landholding if after due hearing, it is shown that the "landholding is declared by the [DAR] upon the recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes."

Likewise, under various Presidential Decrees (P.D. Nos. 583, 815 and 946) which were issued to give teeth to the implementation of the agrarian reform program decreed in P.D. No. 27, the DAR was empowered to authorize conversions of tenanted agricultural lands, specifically those planted to rice and/or corn, to other agricultural or to non-agricultural uses, "subject to studies on zoning of the Human Settlements Commissions" (HSC). This non-exclusive authority of the DAR under the aforesaid laws was, as you have correctly pointed out, recognized and reaffirmed by other concerned agencies, such as the Department of Local Government and Community Development (DLGCD) and the then Human Settlements Commission (HSC) in a Memorandum of Agreement executed by the DAR and these two agencies on May 13, 1977, which is an admission that with respect to land use planning and conversions, the authority is not exclusive to any particular agency but is a coordinated effort of all concerned agencies.

It is significant to mention that in 1978, the then Ministry of Human Settlements was granted authority to review and ratify land use plans and zoning ordinance of local governments and to approve development proposals which include land use conversions (see LOI No. 729 [1978]). This was followed by P.D. No. 648 (1981) which conferred upon the Human Settlements Regulatory Commission (the predecessors of the Housing and Land Use Regulatory Board [HLURB][)] the authority to promulgate zoning and other land use control standards and guidelines which shall govern land use plans and zoning ordinances of local governments, subdivision or estate development projects of both the public and private sector and urban renewal plans, programs and projects; as well as to review, evaluate and approve or disapprove comprehensive land use development plans and zoning components of civil works and infrastructure projects, of national, regional and local governments, subdivisions, condominiums or estate development projects including industrial estates.

> P.D. No. 583, as amended by P.D. No. 815, and the 1977 Memorandum of Agreement, abovementioned, cannot therefore, be construed as sources of authority of the DAR; these issuances merely affirmed whatever power DAR had at the time of their adoption.
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> With respect to your observation that E.O. No. 129-A also empowered the DAR to approve or disapprove conversions of agricultural lands into non-agricultural uses as of July 22, 1987, it is our view that E.O. No. 129-A likewise did not provide a new source of power of DAR with respect to conversion but it merely recognized and reaffirmed the existence of such power as granted under existing laws. This is clearly inferrable from the following provision of E.O. No. 129-A to wit:
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> > "Sec. 5. Powers and Functions. Pursuant to the mandate of the Department, and in order to ensure the successful implementation of the Comprehensive Agrarian Reform Program, the Department is hereby authorized to:
> >
> > 1) Have exclusive authority to approve or disapprove conversion of agricultural lands for residential, commercial, industrial and other land uses as may be provided by law"
>
> Anent the observation regarding the alleged deletion of residential, housing, commercial and industrial sites classified by the HLURB in the final version of the CARP bill, we fail to see how this [sic] circumstances could substantiate your position that DAR's authority to reclassify or approve conversions of agricultural lands to non-agricultural uses already existed prior to June 15, 1988. Surely, it is clear that the alleged deletion was necessary to avoid a redundancy in the CARP law whose coverage is expressly limited to "all public and private agricultural lands" and "other lands of the public domain suitable for agriculture" (Sec. 4, R.A. No. 6657). Section 3(c) of R.A. No. 6657 defines "agricultural land" as that "devoted to agricultural activity as defined in the Act and not classified as mineral forest, residential, commercial or industrial land."
>
> *Based on the foregoing premises, we reiterate the view that with respect to conversions of agricultural lands covered by R.A. No. 6657 to non-agricultural uses, the authority of DAR to approve such conversions may be exercised from the date of the law's effectivity on June 15, 1988. This conclusion is based on a liberal interpretation of R.A. No. 6657 in the light of DAR's mandate and the extensive coverage of the agrarian reform program.*[47] (Emphasis supplied)

Department of Justice Opinion No. 44 became the basis of subsequent issuances by the Department of Agrarian Reform, stating in clear terms that parties need not seek prior conversion clearance from the Department of Agrarian Reform for lands that were classified as non-agricultural prior to Republic Act No. 6657. The subsequent rulings are outlined in *Junio v. Secretary Garilao*:[48]

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47 Department of Justice Opinion No. 44 (1990).

48 503 Phil. 154 (2005) [Per J. Panganiban, Third Division].

> Following the opinion of the Department of Justice (DOJ), the DAR issued Administrative Order (AO) No. 6, Series of 1994, stating that conversion clearances were no longer needed for lands already classified as non-agricultural before the enactment of Republic Act 6657. Designed to "streamline the issuance of exemption clearances, based on DOJ Opinion No. 44," the AO provided guidelines and procedures for the issuance of exemption clearances.
>
> Thereafter, DAR issued AO 12, Series of 1994, entitled "Consolidated and Revised Rules and Procedures Governing Conversion of Agricultural Lands to Non-Agricultural Uses." It provided that the guidelines on how to secure an exemption clearance under DAR AO No. 6, Series of 1994, shall apply to agricultural lands classified or zoned for non-agricultural uses by local government units (LGUs); and approved by the Housing and Land Use Regulatory Board (HLURB) before June 15, 1988. Under this AO, the DAR secretary had the ultimate authority to issue orders granting or denying applications for exemption filed by landowners whose lands were covered by DOJ Opinion No. 44.[49] (Citations omitted)

Accordingly, lands are considered exempt from the coverage of Republic Act No. 6657 if the following requisites are present:

1. Lands were zoned for non-agricultural use by the local government unit; and

2. The zoning ordinance was approved by the Housing and Land Use Regulatory Board before June 15, 1998.

In revoking the prior order of exemption, Secretary Pangandaman took note of the following considerations:

- The Certification dated 18 November 2003, of Mr. David D. David, Planning Officer IV and Zoning Administrator of the City of Angeles states that the City Planning and Development Office, Zoning Administration Unit (CPDO-ZAU) *certifies that subject property covered by TCT No. 11804 is classified as agricultural based on the certified photocopy of Zoning Ordinance, Ordinance No. 13, Series of 1978,* issued by the Housing and Land Use Regulatory Board, Regional Office No. 3 (HLURB-Region III) on 03 September 2001;

- Also, *upon verification with HLURB-Region III, we were informed that as per copy of the approved Zoning Plan of 1978, the subject properties were classified as agricultural.* The said Zoning Plan of 1978 was approved under NCC Plan dated 24 September 1980; and

- Based on the ocular inspection conducted by the CLUPPI Inspection Team, it was found that the area remained agricultural. In fact, it is still

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[49] Id. at 165.

dominantly planted with sugar cane and corn.[50] (Emphasis supplied)

Upon respondent's motion for reconsideration, Secretary Pangandaman also took into consideration the recommendations of the Center for Land Use Policy, Planning, and Implementation Committee, thus:

> During the 50th Special CLUPPI Committee-B Meeting, held on 18 December 2007, the Motion for Reconsideration filed by Sylvia Espirilla [sic] was deliberated upon and the Committee recommended the DENIAL of the Motion for Reconsideration based on the following grounds:
>
> - *The certifications issued by the HLURB shows that the subject properties were classified as agricultural before 15 June 1986 [sic];* and
>
> - Based on the ocular inspection conducted by the CLUPPI Inspection Team, *it was found out that the area remained agricultural.* In fact, it [is] still dominantly planted with sugar cane and corn.[51] (Emphasis supplied)

Secretary Pangandaman also found that:

> *The certifications submitted by the [respondents] which is the Certification dated 18 November 2003, of Mr. David D. David, Planning Officer IV and Zoning Administrator of the City of Angeles states that the City Planning Development Office, Zoning Administration Unit (CPDO-ZAU) certifies that the subject properties covered by TCT No. T-11804 is classified as agricultural* based on the certified photocopy of Zoning Ordinance, Ordinance No. 13[,] Series of 1978 issued by the Housing and Land Use Regulatory Board, Regional Office No. 3 (HLURB-Region III) on 03 September 2001.
>
> *Such certification was corroborated by a certification issued by the HLURB Regional Director, Region III, Ms. Edithat [sic] Barrameda in its certification dated 28 May 2001 and 24 November 2003. It was stated in the said certification that the subject landholding is within the agricultural zone based on Comprehensive Land Use Plan and Zoning Ordinance of the City Council of Angeles City approved through HLURB Resolution No. 705 dated 17 October 2001.* Also a certification was issued by Director Barrameda on 01 June 2001, stating therein that, "Duplicate copies of the Certification issued by this Board to Ms. Lutgarda Torres on 18 December 1991 and 8 July 1998, respectively are not among the files for safekeeping when she assumed as Regional Officer on 03 July 2000.["][52] (Emphasis supplied)

These findings were sustained on appeal by the Office of the President, stating that:

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50 *Rollo*, p. 67.
51 Id. at 70.
52 Id. at 70–71.

> [Respondents'] argument that the land has ceased to be agricultural by virtue of reclassification under Ordinance No. 13, series of 1978 cannot be sustained since the records of the case or the evidence presented thereto are bereft of any indication showing the same. In fact, nowhere was it shown that a certified true copy of the said Ordinance was presented before this Office or the office *a quo*.[53]

The factual findings of administrative agencies are generally given great respect and finality by the courts as it is presumed that these agencies have the knowledge and expertise over matters under their jurisdiction.[54] Both the Department of Agrarian Reform and the Office of the President found respondent's lands to be agricultural. We see no reason to disturb these findings.

WHEREFORE, the petition is **GRANTED.** The decision dated September 28, 2012 and resolution dated November 29, 2012 of the Court of Appeals are **SET ASIDE.** The order dated June 15, 2006 of the Department of Agrarian Reform and the decision dated May 7, 2009 of the Office of the President are **REINSTATED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

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53 Id. at 79.

54 *See Junio v. Secretary Garilao*, 503 Phil. 154, 167 (2005) [Per J. Panganiban, Third Division].

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice