Republic of the Philippines
Supreme Court
Manila

EN BANC

RAMON M. ALFONSO, Petitioner,	**G.R. Nos. 181912 & 183347**
	Present:
-versus-	SERENO, *C.J.*, CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, BRION, PERALTA, BERSAMIN, DEL CASTILLO,* PEREZ, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, and JARDELEZA, and CAGUIOA, *JJ.*
LAND BANK OF THE PHILIPPINES and DEPARTMENT OF AGRARIAN REFORM, Respondents.	Promulgated: November 29, 2016

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D E C I S I O N

JARDELEZA, *J.*:

The main issue presented in this case concerns the legal duty of the courts, in the determination of just compensation under Republic Act No. 6657,[1] (RA 6657), in relation to Section 17 of RA 6657 and the implementing formulas of the Department of Agrarian Reform (DAR).

The Court *En Banc* reaffirms the established jurisprudential rule, that is: until and unless declared invalid in a proper case, courts have the positive legal duty to consider the use and application of Section 17 and the DAR

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* No part.

1 Comprehensive Agrarian Reform Law of 1988.

basic formulas in determining just compensation for properties covered by RA 6657. When courts, in the exercise of its discretion, find that deviation from the law and implementing formulas is warranted, it must clearly provide its reasons therefor.

The Case

This is a petition for review on *certiorari* of the Decision[2] and Resolution,[3] dated July 19, 2007 and March 4, 2008, respectively, of the Court of Appeals in CA-G.R. SP No. 90615 and CA-G.R. SP No. 90643. The Court of Appeals granted the individual petitions filed by the DAR and the Land Bank of the Philippines (LBP) and set aside the Decision[4] dated May 13, 2005 of the Regional Trial Court fixing the total amount of ₱6,090,000.00 as just compensation.[5]

The Facts

Cynthia Palomar (Palomar) was the registered owner of two (2) parcels of land. One is located in San Juan, Sorsogon City, with an area of 1.6530 hectares covered by Transfer Certificate of Title (TCT) No. T-21136,[6] and the other in Bibincahan, Sorsogon City, with an area of 26.2284 hectares covered by TCT No. T-23180.[7]

Upon the effectivity of RA 6657, the DAR sought to acquire Palomar's San Juan and Bibincahan properties at a valuation of ₱36,066.27 and ₱792,869.06,[8] respectively. Palomar, however, rejected the valuations.

Land Valuation Case Nos. 68-01 and 70-01 were consequently filed before the DAR Provincial Adjudication Board (Board) for summary determination of just compensation. In the meantime, or on April 16, 2001, Palomar sold her rights over the two properties to petitioner Ramon M. Alfonso (Alfonso).[9]

Upon orders from the Board, the parties submitted their position papers and evidence to support their respective proposed valuations. On June 20, 2002, Provincial Adjudicator Manuel M. Capellan issued Decisions[10] in Land Valuation Case Nos. 68-01 and 70-01.

Applying DAR Administrative Order No. 5, Series of 1998, (DAR AO No. 5 [1998]), Provincial Adjudicator Capellan valued the properties as follows:

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2 Through Associate Justice Arcangelita M. Romilla-Lontok, with Justices Mariano C. Del Castillo and Romeo F. Barza concurring, *rollo*, pp. 24-32.

3 Through Associate Justice Arcangelita M. Romilla-Lontok, with Justices Mariano C. Del Castillo and Romeo F. Barza concurring, *id.* at 34-35.

4 By Judge Honesto A. Villamor, in Civil Cases No. 2002-7073 and 2002-7090, *id.* at 58-66.

5 *Id.* at 66.

6 CA *rollo* (CA-G.R. SP No. 90615), p. 107.

7 *Id.* at 110.

8 *Id.* at 108, 111.

9 *Rollo*, p. 59.

10 CA *rollo* (CA-G.R. SP No. 90615), 107-112.

San Juan Property:

Land Value = CNI x 0.9 + MV x 0.1

Thus:

666.67 kls AGP / FIR
16.70 ASP / PCA data

CNI	=	666.67 x 16.70 x .70 - .12 x 0.9
	=	58,450.29
MV	=	30,600 x 1.2 x .90 + 70 x 150.00 x 1.2 x .90 x 0.1
	=	4,438.80
Land Value	=	58,450.29 + 4,438.80
	=	62,889.09 x 1.6530hectares
	=	**103,955.66**[11]

Bibincahan Property:

Land Value = CNI x 0.9 + MV x 0.1

Thus:

952 kls AGP / FIR
16.70 ASP /PCA data

CNI	=	952 x 16.70 x .70 - .12 x 0.9
	=	83,466.59
MV	=	30,600 x 1.2 x .90 + 90 x 150.00 x 1.2 x .90 x 0.1
	=	4,762.80
Land Value	=	83,466.59 + 4,762.80
	=	88,229.39 x 26.2284 hectares
	=	**2,314,115.73**[12]

Respondent LBP, as the CARP financial intermediary pursuant to Section 64 of RA 6657,[13] filed a motion seeking for a reconsideration of the Provincial Adjudicator's valuations. This was denied in an Order[14] dated September 13, 2002.

Both the LBP[15] and Alfonso[16] filed separate actions for the judicial determination of just compensation of the subject properties before Branch 52 of the Regional Trial Court, sitting as Special Agrarian Court (SAC), of

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11 PARAD Decision, *rollo*, pp. 49-50. Emphasis supplied.
12 PARAD Decision, *id.* at 52-53. Emphasis supplied.
13 *Id.* at 54.
14 CA *rollo* (CA-G.R. SP No. 90615), p. 93.
15 *Id.* at 94-98.
16 *Id.* at 99-102.

Sorsogon City. These actions were docketed as Civil Case No. 2002-7073 and Civil Case No. 2002-7090, respectively. Upon Alfonso's motion, the cases were consolidated on December 10, 2002[17] and Amado Chua (Chua) of Cuervo Appraisers, Inc. was appointed Commissioner who was ordered to submit his report (Cuervo Report) within thirty (30) days.[18]

Trial on the merits ensued, with each party presenting witnesses and documentary evidence to support their respective case. Aside from presenting witnesses, the LBP submitted as evidence the following documents: Field Investigation Report, Land Use Map and Market Value per Ocular Inspection for each of the affected properties.[19] Alfonso, for his part, submitted as evidence the Cuervo Report and the testimony of Commissioner Chua.[20]

In his appraisal of the properties, Commissioner Chua utilized two approaches in valuing the subject properties, the Market Data Approach (MDA) and the Capitalized Income Approach (CIA), due to their "different actual land use."[21] He opined that "the *average* of the two indications reasonably represented the just compensation (fair market value) of the land with productive coconut trees":[22]

Site	Unit Land Value (Php/Sq. M.)[23]		
	Market Data Approach (MDA)	Capitalized Income Approach (CIA)	**Average (rounded to the nearest tens)**
1	Php 25	Php 18.1125	**22**
2	Php 22	Php 17.1275	**20**

He thereafter computed the final land value as follows:[24]

	Area (Sq. m.)	Unit Land Value (Php)	**Just Compensation (Fair Market Value)**
Site 1			
Coconut Land	15,765	22	Php 346,830
Residential Land	600	160	96,000
Irrigation Canal	165	*	*
Total for Site 1 -	**16,530 sq.m.**		**Php 442,830**
Site 2			
Coconut Land	258,534	20	Php 5,170,680
Residential Land	3,000	160	480,000
Irrigation Canal	750	*	*
Total for Site 2 -	**262,284 sq.m.**		**Php 5,650,680**
Grand Total (Sites 1 & 2) -	**278,814 sq.m.**		**Php 6,093,510**
		Say -	**Php 6,094,000**

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17 *Id.* at 116.
18 *Rollo*, p. 26.
19 CA *rollo* (CA-G.R. SP No. 90615), pp. 121-136.
20 *Id.* at 139-140.
21 Cuervo Report, p. 11, records, p. 66.
22 Cuervo Report, p. 17, records, p. 66. Emphasis in the original.
23 *Id.*
24 Cuervo Report, pp. 17-18, records, p. 66. Emphasis in the original.

Ruling of the SAC

On May 13, 2005, the SAC rendered its Decision. Finding the valuations of both the LBP and the Provincial Adjudicator to be "unrealistically low,"[25] the SAC adopted Commissioner Chua's valuation as set out in the Cuervo Report. It also held that the provisions of Section 2, Executive Order No. 228 (EO 228) were mere "guiding principles" which cannot substitute the court's judgment "as to what amount [of just compensation] should be awarded and how to arrive at such amount."[26] The dispositive portion of the SAC's Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered:
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> 1) Fixing the amount of FOUR HUNDRED FORTY-TWO THOUSAND EIGHT HUNDRED THIRTY PESOS ([₱]442,830.00)[ ], Philippine currency for Site 1 with an area of 16,530 sq. m. covered by TCT No. T-21136 situated at San Juan, Sorsogon City and the amount of FIVE MILLION SIX HUNDRED FIFTY THOUSAND SIX HUNDRED EIGHTY [PESOS] ([₱]5,650,680.00) Philippine currency for Site 2 with an area of 262,284 sq. m. covered by TCT No. T-23180 situated at Bibincahan, Sorsogon City or a total amount of SIX MILLION NINETY THOUSAND PESOS ([₱]6,090,000.00) for the total area of 278,814 sq. m. in the name of Cynthia Palomar/Ramon M. Alfonso which property was taken by the government pursuant to the Agrarian Reform Program of the government as provided by R.A. 6657.
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> 2) Ordering the Petitioner Land Bank of the Philippines to pay the Plaintiff/Private Respondent the amount of FOUR HUNDRED FORTY-TWO THOUSAND EIGHT HUNDRED THIRTY PESOS ([₱]442,830.00) and the amount of FIVE MILLION SIX HUNDRED FIFTY THOUSAND AND SIX HUNDRED EIGHTY PESOS ([₱]5,650,680.00) or the total amount of SIX MILLION NINETY THOUSAND PESOS ([₱]6,090,000.00) Philippine currency for Lots 1604 and 2161 respectively, in the manner provided by R.A. 6657 by way of full payment of the said just compensation after deducting whatever amount previously received by the private respondents from the Petitioner Land Bank of the Philippines as part of the just compensation.
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> 3) Without pronouncement as to costs.
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> SO ORDERED.[27]

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[25] RTC Decision, *rollo*, p. 65.
[26] *Id.*
[27] RTC Decision, *rollo*, pp. 65-66.

In an Order[28] dated July 5, 2005, the SAC denied the motions filed by the LBP and the DAR seeking reconsideration of the Decision. These government agencies filed separate petitions for review before the Court of Appeals.

In its petition, docketed as CA-G.R. SP No. 90615, the LBP faulted the SAC for giving considerable weight to the Cuervo Report and argued that the latter's valuation was arrived at in clear violation of the provisions of RA 6657, DAR AO No. 5 (1998), and the applicable jurisprudence.[29]

According to the LBP, there is nothing in Section 17 of RA 6657 which provides that capitalized income of a property can be used as a basis in determining just compensation. Thus, when the SAC used the capitalized income of the properties as basis for valuation, "it actually modified the valuation factors set forth by RA 6657."[30]

The DAR, for its part, imputed error on the part of the SAC for adopting "the average between the Market Data Approach and Capitalized Income Approach as the just compensation of subject landholdings."[31]

Ruling of the Court of Appeals

In its challenged Decision dated July 19, 2007, the Court of Appeals found that the SAC failed to observe the procedure and guidelines provided under DAR AO No. 5 (1998). It consequently granted the petitions filed by the LBP and the DAR and ordered the remand of the case to the SAC for the determination of just compensation in accordance with the DAR basic formula.[32]

Alfonso filed a motion seeking reconsideration of the Court of Appeals' Decision.[33] Finding no cogent reason to reverse its earlier Decision, the Court of Appeals denied Alfonso's motion.[34]

Hence, this petition.

Issue

As stated in the outset, the issue sought to be resolved in this case involves the legal duty of the courts in relation to Section 17 and the implementing DAR formulas. Otherwise stated, are courts obliged to apply the DAR formula in cases where they are asked to determine just compensation for property covered by RA 6657?

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28 CA *rollo* (G.R. No. 90643), p. 31.
29 *Rollo*, p. 80.
30 *Id.* at 86-87.
31 Records, p. 190.
32 *Id.*
33 Records, pp. 113-118.
34 *Id.* at 34-35.

The resolution of the issue presented is fairly straightforward given the established jurisprudence on the binding character of the DAR formulas. During the course of the deliberations of this case, however, concerns were strongly raised (by way of dissents and separate concurring opinion) on the propriety of maintaining the present rule.

This case presents an opportunity for the Court *en banc* not only to reaffirm the prevailing doctrine, but also expound, more explicitly and unequivocally, on our understanding of the exercise of our "judicial function" in relation to legislatively-defined factors and standards and legislatively-provided regulatory schemes.

Ruling of the Court

We **GRANT** the petition in part.

The ruling of the Court will thus be divided into four (4) component parts.

To provide context for proper understanding, Part I will discuss the history of Philippine land reform, with emphasis on the development, over the years, of the manner of fixing just compensation, as well as the development of jurisprudence on the same.

In Part II, the Court will evaluate the challenged CA ruling based on the law and prevailing jurisprudence.

Part III will address all issues raised by way of dissents and separate concurring opinion against the mandatory application of the DAR formulas. It will also discuss (1) primary jurisdiction and the judicial function to determine just compensation; (2) how the entire regulatory scheme provided under RA 6657 represents reasonable policy choices on the part of Congress and the concerned administrative agency, given the historical and legal context of the government's land reform program; and (3) how matters raised in the dissents are better raised in a case directly challenging Section 17 and the resulting DAR formulas. We shall also show how the current valuation scheme adopted by the DAR is at par with internationally-accepted valuation standards.

Part IV will conclude by affirming the law, the DAR regulations and prevailing jurisprudence which, save for a successful direct challenge, must be applied to secure certainty and stability of judicial decisions.

I. Contextual Background

A. History of Philippine land reform laws

Section 4, Article XIII of the Constitution provides:

> Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.

Congress first attempted to provide for land reform in 1955, when it enacted Republic Act No. 1400, or the Land Reform Act of 1955 (RA 1400). Its scope was limited to the expropriation of private agricultural lands in excess of 300 hectares of contiguous area, if held by a natural person, and those in excess of 600 hectares if owned by corporations.[35] With respect to determining just compensation, it provided that the courts take into consideration the following:

(a) Prevailing prices of similar lands in the immediate area;
(b) Condition of the soil, topography, and climate hazards;
(c) Actual production;
(d) Accessibility; and
(e) Improvements.[36]

Afterwards, Congress enacted Republic Act No. 3844, otherwise known as the Agricultural Land Reform Code of 1963 (RA 3844). Its scope, though expanded, was limited by an order of priority based on utilization and area.[37] Just compensation under this law was based on the annual lease

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[35] Republic Act No. 1400 (1955), Sec. 6(2).

[36] Republic Act No. 1400 (1955), Sec. 12(2). See also *Republic v. Nable-Lichauco*, G.R. No. L-18001, July 30, 1965, 14 SCRA 682.

[37] Republic Act No. 3844 (1963), Sec. 51(1) provides:

> Sec. 51. *Powers and Functions.* – It shall be the responsibility of the Authority:
> (1) To initiate and prosecute expropriation proceedings for the acquisition of private agricultural lands x x x for the purpose of subdivision into economic family-size farm units and resale of said farm units to *bona fide* tenants, occupants and qualified farmers: *Provided*, That the powers herein granted shall apply only to private agricultural lands subject to the terms and conditions and order of priority hereinbelow specified:
>
> x x x
>
> c. in expropriating private agricultural lands declared by the National Land Reform Council or by the Land Authority within a land reform district to be necessary for the implementation of the provisions of this Code, the following order of priority shall be observed:

rental income, without prejudice to the other factors that may be considered.[38]

On October 21, 1972, then President Ferdinand Marcos issued Presidential Decree No. 27[39] (PD 27). It provided for a national land reform program covering all rice and corn lands.[40] This was a radical shift in that, for the first time in the history of land reform, its coverage was national, compulsorily covering all rice and corn lands. Even more radical, however, is its system of land valuation. Instead of providing factors to be considered in the determination of just compensation, similar to the system under RA 1400 and RA 3844, PD 27 introduced a valuation process whereby just compensation is determined using a *fixed mathematical formula provided within the law itself.* The formula was also exclusively production based, that is, based only on the income of the land.

Under PD 27, landowner's compensation was capped to 2.5 times the annual yield, as follows:

Land Value = Average harvest of 3 normal crop years x (2.5)

Notably, this valuation scheme under PD 27 closely resembled those applied in agrarian reform programs earlier implemented in other Asian countries. In Taiwan, for example, compensation was capped at 2.5 times the annual yield of the main crop, when the land values at the time averaged four to six times the annual yield.[41] South Korea, which commenced its land reform program sometime in the 1940s, on the other hand, capped compensation at 1.25 times the value of the annual yield, when the land values at the time averaged five times the annual yield.[42] In Japan, the price

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1. idle or abandoned lands;
2. those whose area exceeds 1,024 hectares;
3. those whose area exceeds 500 hectares but is not more than 1,024 hectares;
4. those whose area exceeds 144 hectares but is not more than 500 hectares; and
5. those whose area exceeds 75 hectares but is not more than 144 hectares.

[38] Republic Act No. 3844 (1963), Sec. 56 reads:

Sec. 56. *Just Compensation.* – In determining the just compensation of the land to be expropriated pursuant to this Chapter, the Court, in land under leasehold, shall consider as a basis, without prejudice to considering other factors also, **the annual lease rental income authorized by law capitalized at the rate of six *per centum per annum*.**

The owner of the land expropriated shall be paid in accordance with Section eighty of this Act by the Land Bank and pursuant to an arrangement herein authorized. (Emphasis supplied.)

[39] 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 Therefor.

[40] Notably, agrarian reform first appeared, as a constitutional policy, only under the 1973 Constitution. Under Section 12, Article XIV, it was provided that:"The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution."

[41] Iyer and Maurer, THE COST OF PROPERTY RIGHTS: ESTABLISHING INSTITUTIONS ON THE PHILIPPINE FRONTIER UNDER AMERICAN RULE, 1898-1918, Harvard Business School Working Paper 09-023, 2008, p. 31, citing Yager, TRANSFORMING AGRICULTURE IN TAIWAN: THE EXPERIENCE OF THE JOINT COMMISSION ON RURAL RECONSTRUCTION, 1988, Ithaca and London: Cornell University Press.

[42] *Id.* citing Eddy Lee, EGALITARIAN PEASANT FARMING AND RURAL DEVELOPMENT: THE CASE OF SOUTH KOREA, 1979, World Development 7, p. 508.

for the acquisition of agricultural land under its land reform program, at one point, "could not be greater than forty times the 'official rental value' (*chintai-kakaku*) of rice fields or forty-eight times the 'official rental value' of dry fields x x x."[43]

While the constitutionality of PD 27 was upheld in the cases of *De Chavez v. Zobel*[44] and *Gonzales v. Estrella*,[45] these cases did not rule on the validity of the mathematical valuation formula employed.

Under President Corazon C. Aquino's Executive Order No. 228 (EO 228) issued on July 17, 1987, the system under PD 27 was more or less retained for purposes of valuing the remaining *unvalued* rice and corn lands. Land value under EO 228 was computed based on the average gross production (AGP) multiplied by 2.5, the product of which shall be multiplied by either ₱35.00 or ₱31.00, the Government Support Price (GSP) for one *cavan* of palay or corn, respectively. Thus:

Land Value = (AGP x 2.5) x GSP[46]

On June 10, 1988, RA 6657 was enacted implementing a comprehensive agrarian reform program (CARP). Unlike PD 27 which covered only rice and corn lands, CARP sought to cover *all* public and private agricultural lands. It was (and remains to be) an ambitious endeavor, targeting an estimated 7.8 million hectares of land for acquisition and redistribution to landless farmer and farmworker beneficiaries.[47]

B. Regulatory scheme to determine just compensation under RA 6657

With an undertaking of such magnitude, the Congress set up a regulatory scheme for the determination of just compensation founded on four major features.

First, under Section 17 of RA 6657, Congress identified factors to be considered in the determination of just compensation in the expropriation of agricultural lands. This Section reads:

> Sec. 17. *Determination of Just Compensation.* – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any

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[43] Bernas, CONSTITUTIONAL RIGHTS AND SOCIAL DEMANDS, NOTES AND CASES, PART II, 1996 Edition, p. 1009, citing *C. Tanaka v. Japan*, 7 Minshui 1523 (1953).

[44] G.R. Nos. L-28609-10, January 17, 1974, 55 SCRA 26.

[45] G.R. No. L-35739, July 2, 1979, 91 SCRA 294.

[46] Executive Order No. 228 (1987), Sec. 2.

[47] Q and A on CARP <http://www.dar.gov.ph/q-and-a-on-carp/english> (last accessed June 14, 2016).

> government financing institution on the said land shall be considered as additional factors to determine its valuation.

Second, under Section 49, Congress vested the DAR and the Presidential Agrarian Reform Council (PARC)[48] with the power to issue rules and regulations, both substantive and procedural, to carry out the objects and purposes of the law:

> Sec. 49. *Rules and Regulations.*– The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.

It is on the basis of this section that the DAR would issue its basic formulas.

Third, under Section 16(d) and (f), Congress gave the DAR primary jurisdiction to conduct summary administrative proceedings to determine and decide the compensation for the land, in case of disagreement between the DAR/LBP and the landowners:

> 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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> x x x
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> (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 the 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.
>
> x x x
>
> (f) Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

Fourth, to implement Section 16(f), Congress provided for the judicial review of the DAR preliminary determination of just compensation. Under Sections 56 and 57, it vested upon designated Special Agrarian Courts the special original and exclusive jurisdiction over all petitions for the determination of just compensation to landowners:

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[48] The PARC, under Section 41 of RA 6657, is headed by the President of the Philippines as chairman, with designated department secretaries and other government officials, three (3) representatives of affected landowners to represent Luzon, Visayas and Mindanao, and six (6) representatives of agrarian reform beneficiaries, as members.

> Sec. 56. *Special Agrarian Court.* – The Supreme Court shall designate at least one (1) branch of the Regional Trial Court (RTC) within each province to act as a Special Agrarian Court. The Supreme Court may designate more branches to constitute such additional Special Agrarian Courts as may be necessary to cope with the number of agrarian cases in each province. In the designation, the Supreme Court shall give preference to the Regional Trial Courts which have been assigned to handle agrarian cases or whose presiding judges were former judges of the defunct Court of Agrarian Relations. The Regional Trial Court (RTC) judges assigned to said courts shall exercise said special jurisdiction in addition to the regular jurisdiction of their respective courts. The Special Agrarian Courts shall have the powers and prerogatives inherent in or belonging to the Regional Trial Courts.
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> Sec. 57. *Special Jurisdiction.* – The Special Agrarian Courts shall have original and exclusive jurisdiction over all petitions for the determination of just compensation to landowners, and the prosecution of all criminal offenses under this Act. The Rules of Court shall apply to all proceedings before the Special Agrarian Courts, unless modified by this Act. The Special Agrarian Courts shall decide all appropriate cases under their special jurisdiction within thirty (30) days from submission of the case for decision.

We shall later on show how this regulatory scheme provided by Congress (and implemented by the DAR) is a reasonable policy choice given the grand scale of the government's agrarian reform program.

C. Development of the DAR basic formula

On March 8, 1989, the DAR issued Administrative Order No. 6[49] (DAR AO No. 6 [1989]), its first attempt to translate the factors laid down by Congress in Section 17 into a formula.

Making use of "the multi-variable approach which subsumes the ten *factors* mentioned under Section 17," the DAR set out a *formula* to estimate "a composite value based on land market price, assessor's market value and landowner's declared value."[50] Reduced to equation form, the formulation is as follows:

$$\textbf{Total Land Value} = \frac{\textbf{MV + AMV + DV}}{\textbf{3}}$$

where:

Market Value (MV)	=	Refers to the latest and comparable transactions within the municipality/province/region, depending on availability of data.

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[49] Rules and Procedures on Land Valuation and Just Compensation.

[50] Part IV, DAR AO No. 6 (1989).

		Mortgages which take into account bank exposures shall also be considered in computing for this value.
Assessor's Market Value (AMV)	=	Refers to the assessment made by government assessors.
Declared Value (DV)	=	Refers to the landowner's declaration under EO 229 or RA 6657.[51]

Between June 1988 to December 1989, the University of the Philippines Institute of Agrarian Studies (UP-IAS) conducted an agrarian reform study, which analyzed, among others, the land valuation scheme of the government under DAR AO No. 6 (1989).[52]

The UP-IAS study, which Justice Leonen cites in his dissenting opinion, criticized DAR AO No. 6 (1989) for averaging the values based on the land market price, assessor's market value and landowner's declared value. The UP-IAS study said:

> If agricultural lands are to be distributed to landless farmers and farmworkers for agricultural purposes, then landowners should be compensated for their lands based on its agricultural potential. **The appropriate formula, therefore, is to value land based only on production/productivity**. The land valuation on PD 27, which stipulates that the value is equivalent to 2.5 x average production of three preceding normal croppings is a classic illustration of simplicity and productivity-based land valuation.[53] (Emphasis supplied.)

According to the study, the AMV component had no cut-off date, while the MV factor had no guidelines for determining comparable sales, which makes the DAR formula prone to manipulation.[54] It thus suggested control measures to prevent manipulation of the existing formula, including the setting of cut-off dates for AMV and guidelines for comparable sales.[55] It went on to suggest that "x x x major components could be assigned weights *with more emphasis attached to the production-based value.* Should the declared value be unavailable, then the value should be based only on the components that are available, rather than employ the maximum limit, that is, assuming DV to be equivalent to the sum of the other components. x x x"[56]

It was also around this time that the infamous Garchitorena estate deal was exposed. Under this deal, land acquired privately for only ₱3.1 Million

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51 *Id.*

52 Institute of Agrarian Studies, College of Economics and Management, STUDIES ON AGRARIAN REFORM ISSUES, UPLB, College, Laguna, pp. 6-7.

53 *Id.* at 91.

54 *Id.* at 89-90.

55 *Id.* at 90-93.

56 *Id.* at 92. Emphasis supplied.

in 1988 was proposed to be purchased by the DAR a year later at "an extremely inflated price" of ₱62.5 Million.[57] In his book *A Captive Land: The Politics of Agrarian Reform in the Philippines,* Dr. James Putzel wrote:

> Under the compensation formula finally included in the law and the early [guidelines] of DAR, landowners could secure even *more than* [*market value*] compensation for their lands. x x x With the passage of [RA 6657] in June 1988, DAR decided that the value of land would be determined by averaging three estimates of market value: the 'assessed market value' (AMV) reported in a landowner's most recent tax declaration, the 'market value' (MV) as an average of three sales of comparable land in the vicinity of a landholding inflated by the consumer price index, and the owner's own 'declaration of fair market value' (DMV) made during the government's land registration programme, *Listasaka 1 and II*, between 1987 and 1988. While the compensation formula included a safeguard against extreme [overvaluation] in the owner's own declaration, it still permitted compensation at up to 33 per cent more than the market value x x x.
>
> Such a compensation formula might have guaranteed against excessive compensation, in terms of the [market value] criteria enunciated in the law, if state institutions like DAR or the tax bureau[ ] were immune to landowner influence. However, DAR officials were urged to demonstrate results by closing as many deals as possible with landowners. There were several ways in which the formula was abused. First, DAR officials often chose to establish market value (MV) as an average of three sales of highly-valued land, labelling the sales as 'comparable.' The arbitrary character of their choice along with the tendency for land speculation demonstrated the unsoundness of using 'comparable sales' as an element in the compensation formula. Secondly, landowners were able to pay just one tax instalment on the basis of an inflated land value and thus raise the level of 'assessed market value' (AMV). The nearer that assessed value was to the market value, the higher could be their own declared value and the resulting compensation. There was no obligation for landowners to pay unpaid tax arrears at the inflated level, but beneficiaries who received the land would be required to pay taxes at

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[57] The Garchitorena estate was a 1,888 hectare former abaca plantation in Camarines Sur that was no longer useful for cultivation. It was bought by Sharp Marketing Inc. from the United Coconut Planters Bank (UCPB) in 1988 for ₱3.1 Million. Sharp, in 1989, or less than a year later, tried to sell the estate to the DAR under the CARP's VOS program for ₱62.5 Million. The DAR, through then Secretary Phillip Juico, approved the sale. Then LBP President Deogracias Vistan, however, refused to give his consent to the deal, saying that Sharp had overreported the productivity of the land and that the beneficiaries had been coerced to accept the value. President Vistan later reported the matter to Congress. The exposure of the deal led to a congressional investigation, the filing by Sharp of a case for mandamus (*Sharp International Marketing v. Court of Appeals*, G.R. No. 93661, September 4, 1991, 201 SCRA 299), and the filing of cases with the Sandiganbayan, among others. As previously noted, subsequently, under EO 405, the LBP was given primary responsibility to determine land valuation and compensation. See also Putzel, *A Captive Land: The Politics of Agrarian Reform in the Philippines*, 1992, Catholic Institute for International Relations (London, UK) and Monthly Review Press (New York, USA).

> this level. Thirdly, because DAR officials discussed with landowners the level of comparable sales being chosen, landowners could both influence that choice and plan the most advantageous level for their 'declared market value' (DMV). The formula was therefore extremely susceptible to abuse by the landowners and opened the door to corrupt practices by DAR officials.[58]

Within the same year, DAR Administrative Order No. 17[59] (DAR AO No. 17 [1989]) was issued revising the land valuation formula under DAR AO No. 6 (1989). This revision appears to be a reaction to the recent developments, with the new formula reflecting lessons learned from the Garchitorena estate scandal and the UP-IAS study's comments and suggested improvements.

Under DAR AO No. 17 (1989), the DAR laid down guidelines for the determination of the Comparable Sales (CS) component,[60] provided a cut-off date for Market Value per Tax Declaration (MV),[61] and placed greater weight to productivity through the Capitalized Net Income (CNI) factor, among others. Thus:

Land Value = (CS x 0.3) + (CNI x 0.4) + (MV x 0.3)

Where:

CS	=	Comparable Sales
CNI	=	Capitalized Net Income
MV	=	Market Value per Tax Declaration[62]

In case of unavailability of figures for the three main factors, the DAR, in keeping with the UP-IAS study, also came up with alternate formulas using the available components, always with more weight given to CNI, the production-based value.

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[58] Putzel, A CAPTIVE LAND: THE POLITICS OF AGRARIAN REFORM IN THE PHILIPPINES, 1992, Catholic Institute for International Relations (London, UK) and Monthly Review Press (New York, USA), pp. 312-314.

[59] Rules and Regulations Amending Valuation of Lands Voluntarily Offered Pursuant to EO 229 and RA 6657 and Those Compulsorily Acquired Pursuant to RA 6657.

[60] I. Definition of Terms/Applicability of Factors

A. *Comparable Sales (CS)* – This factor shall refer to the AVERAGE of three (3) comparable sales transactions, the criteria of which are as follows:

1. Sale transactions shall be in the same municipality. In the absence thereof, sales transactions within the province may be considered[;]
2. One transaction must involve land whose area is at least ten percent (10%) of the area being offered or acquired but in no case should it be less than one (1) hectare. The two others should involve land whose area is at least one (1) hectare each;
3. The land subject of acquisition as well as those subject of comparable sales should be similar in topography, land use, i.e., planted to the same crop. Further, in case of permanent crops, the subject properties should be more or less comparable in terms of their stages of productivity and plant density; and
4. The comparable sales should have occurred between the periods 1985 and June 15, 1988.

[61] E. *Market Value per Tax Declaration (MV)* – This shall refer to the market value per tax declaration (TD) issued **before August 29, 1987 (effectivity of EO 229)**. The most recent tax assessment made prior to August 29, 1987 shall be considered. x x x (Emphasis supplied.)

[62] II. Land Valuation Formula for VOS Received Before June 15, 1988 and Valued by the Municipal Agrarian Reform Officer (MARO) as of October 14, 1988. x x x.

On April 25, 1991, the capitalization rate (relevant for the CNI factor) was lowered from 20% to 16%.[63] This decrease was presumably made for the benefit of the landowners, considering a lower capitalization rate results to a higher CNI valuation.

The next major change in the basic formula came with the issuance of DAR Administrative Order No. 6[64] (DAR AO No. 6 [1992]) on October 30, 1992, which, among others, gave even more weight to the CNI factor, and further lowering the capitalization rate to 12%.[65]

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[63] DAR Administrative Order No. 3 (1991).

[64] Rules and Regulations Amending the Valuation of Lands Voluntarily Offered and Compulsorily Acquired as Provided for Under Administrative Order No. 17, Series of 1989, as Amended, Issued Pursuant to Republic Act No. 6657.

[65] II. The following rules and regulations are hereby promulgated to amend certain provisions of Administrative Order No. 17, series of 1989, as amended by Administrative Order No. 3, [s]eries of 1991 which govern the valuation of lands subject of acquisition whether under voluntary offer to sell (VOS) or compulsory acquisition (CA).

A. There shall be one basic formula for the valuation of lands covered by VOS or CA regardless of the date of offer or coverage of the claim:

LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)

Where: LV = Land Value
CNI = Capitalized Net Income
CS = Comparable Sales
MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

LV = (CNI x 0.9) + (MV x 0.1)

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

LV = (CS x 0.9) + (MV x 0.1)

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

LV = MV x 2

A.4 In all the above, the computed value using the applicable formula or the Declared Value by Landowner (DV), whichever is lower, shall be adopted as the Land Value. DV shall refer to the amount indicated in the Landowner's offer or the Listasaka declaration, whichever is lower, in case of VOS. In case of CA, this shall refer to the amount indicated in the Listasaka. Both LO's offer and Listasaka shall be grossed-up using the immediately preceding semestral Regional Consumer Price Index (RCPI), from the date of the offer or the date of Listasaka up to the date of receipt of claimfolders by LBP from DAR for processing.

B. Capitalized Net Income (CNI) – This shall refer to the difference between the gross sales (AGP x SP) and total cost of operations (CO) capitalized at 12%.

Expressed in equation form:

$$\mathbf{CNI = \frac{(AGP \times SP) - CO}{.12}}$$

Where:

CNI = Capitalized Net Income

AGP = One year's Average Gross Production immediately preceding the date of offer in case of VOS or date of notice of coverage in case of CA.

SP = Selling Price shall refer to average prices for the immediately preceding calendar year from the date of receipt of the claimfolder by LBP for processing secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or in their absence, from Bureau of Agricultural Statistics. If possible, SP data shall be gathered from the barangay or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

CO = Cost of Operations. Whenever the cost of operations could not be obtained or verified, an assumed net income rate (NIR) of 20% shall be used. Landholdings planted to coconut which are productive at the time of offer/coverage shall continue to use the 70% NIR. DAR and LBP

This basic formula[66] was retained under DAR AO No. 5 (1998), issued on April 15, 1998. Parenthetically, DAR AO No. 5 (1998) gave landowners the opportunity to take part in the valuation process, including participation in the DAR's field investigations[67] and submission of statements as to the income claimed to be derived from the property (whether from the crop harvest/lease of the property).[68] It is only when the landowner fails to submit the statement, or the claimed value cannot be validated from the actual inspection of the property, that the DAR and the LBP are allowed to "adopt any applicable industry data or, in the absence thereof, conduct an industry study on the specific crop which will be used in

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shall continue to conduct joint industry studies to establish the applicable NIR for each crop covered under CARP.

.12 = Capitalization Rate

B.1 Industry data on production, cost of operations and selling price shall be obtained from government/private entities. Such entities shall include, but not limited to the Department of Agriculture (DA), the Sugar Regulatory Authority (SRA), the Philippine Coconut Authority (PCA) and other private persons/entities knowledgeable in the concerned industry.

B.2 **The landowner shall submit a statement of net income derived from the land subject of acquisition. This shall include among others, total production and cost of operations on a per crop basis, selling price/s (farm gate) and such other data as may be required.** These data shall be validated/verified by the Department of Agrarian Reform and Land Bank of the Philippines field personnel. The actual tenants/farmworkers of the subject property will be the primary source of information for purposes of verification or if not available, the tenants/farmworkers of adjoining property.

In case of failure by the landowner to submit the statement within three weeks from the date of receipt of letter-request from the Municipal Agrarian Reform Office (MARO) or the data stated therein cannot be verified/validated from the farmers, LBP may adopt any available industry data or in the absence thereof may conduct an industry study on the specific crop which will be used in determining the production, cost and net income of the subject landholding.

B.3 For landholdings planted to permanent crops which are introduced by the farmer-beneficiaries, CNI shall be equal to 25% of the annual net income capitalized at 12%. (Emphasis supplied.)

[66] **LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)**

Where:

LV = Land Value
CNI = Capitalized Net Income
CS = Comparable Sales
MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

LV = (CNI x 0.9) + (MV x 0.1)

A.2 When the CNI factor is not present and CS and MV are applicable, the formula shall be:

LV = (CS x 0.9) + (MV x 0.1

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

LV = MV x 2

In no case shall the value of idle land using the formula MV x 2 exceed the lowest value of land within the same estate under consideration or within the same barangay or municipality (in that order) approved by LBP within one (1) year from receipt of claimfolder.

A.4 When the land planted to permanent crops is not yet productive or not yet fruit-bearing at the time of Field Investigation (FI), the land value shall be equivalent to the value of the land plus the cumulative development cost (CDC) of the crop from land preparation up to the time of FI. In equation form:

LV = (MV x 2) + CDC

[67] Republic Act No. 6657, Sec. 34.

[68] Part II.B.2 of DAR AO No. 5 (1998).

determining the production, cost and net income of the subject landholding."[69]

Recognizing that not all agricultural properties are always similarly circumstanced, the DAR also introduced alternative CNI formulas which can be applied depending on a property's peculiar situation. There were CNI formulas for when a land is devoted to intercropping, or the practice of planting seasonal or other permanent crop/s between or under existing permanent or seasonal crops[70] and to account for lease contracts.[71] There are existing valuation guidelines which also take into account the types of crops found in the property sought to be covered, *i.e.*, Cavendish bananas,[72] sugarcane,[73] rubber,[74] and standing commercial trees,[75] among others.

D. First extension of life of CARP

Ten (10) years after RA 6657, the CARP's Land Acquisition and Distribution component was still far from finished. Thus, in 1998, Congress enacted Republic Act No. 8532[76] (RA 8532), extending the CARP implementation for another ten (10) years and providing funds augmentation of ₱50 billion.[77] This additional allocation of funds expired in June 2008. In Joint Resolution No. 1 approved by both Houses of Congress in January 2009, Congress temporarily extended CARP to until June 2009.[78]

E. Republic Act No. 9700 and the amendment of Section 17 of RA 6657

By the end of June 2009, there was still a substantial balance (about 1.6 million hectares for distribution) from the projected target.[79] So, on

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[69] Part II.B.2 of DAR AO No. 5 (1998).

[70] See Part II.B.4 to II.B.5 of DAR AO No. 5 (1998).

[71] Part II.B.6 of DAR AO No. 5 (1998).

[72] Guidelines in the Determination of Valuation Inputs for Landholdings, Planted to Cavendish Banana, Joint DAR-LBP Memorandum Circular No. 06 (2007).

[73] Supplemental Guidelines on the DAR-LBP Joint Financing for Rubber Replanting Under the Credit Assistance Program for Program Beneficiaries Development (CAP-PBD), Joint DAR-LBP Memorandum Circular No. 12 (1999).

[74] Revised Valuation Guidelines for Rubber Plantations, Joint DAR-LBP Memorandum Circular No. 07 (1999); Guidelines in the Valuation of Rubber Lands Covered by DARAB's Order to Re-compute, Joint DAP-LBP Memorandum Circular No. 8 (1999).

[75] Guidelines on the Valuation of Standing Commercial Trees that are Considered as Improvement on the Land, Joint DAR-LBP Memorandum Circular No.11 (2003).

[76] An Act Strengthening Further the Comprehensive Agrarian Reform Program (CARP) by Providing Augmentation Fund Therefor, Amending for the Purpose Section 63 of Republic Act No. 6657, Otherwise Known as "The CARP Law of 1988."

[77] With this, DAR AO No. 5 (1998) was issued, revising the rules and regulations governing the valuation of lands. The **basic** valuation formula under DAR AO No. 6 (1992) was, however, retained. DAR AO No. 5 (1998) was the prevailing rule at the time the controversy involving Alfonso's properties arose.

[78] *Options for CARP After 2014*, CPBR12D Notes No. 2014-08, Congressional Policy and Budget Research Department (House of Representatives), p. 1.

[79] *Id.*

August 7, 2009, Congress passed Republic Act No. 9700[80] (RA 9700), extending the program to June 30, 2014. It also amended Section 17 to read:

> Sec. 17. *Determination of Just Compensation.* — In determining just compensation, the cost of acquisition of the land, *the value of the standing crop,* the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, the assessment made by government assessors, *and seventy percent (70%) of the zonal valuation of the Bureau of Internal Revenue (BIR), **translated into a basic formula by the DAR*** shall be considered, ***subject to the final decision of the proper court.*** The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation. (Italics, emphasis and underscoring supplied.)

To implement the amendments to Section 17, the DAR issued, among others, DAR Administrative Order No. 1[81] (DAR AO No. 1 [2010]) and Administrative Order No. 7[82] (DAR AO No. 7 [2011]). Despite retaining the basic formula for valuation, these administrative orders introduced a change in the reckoning date of average gross product (AGP) and selling price (SP), both of which are relevant to the CNI factor, to June 30, 2009.[83] The MV factor was also amended and adjusted to the fair market value equivalent to seventy percent (70%) of the Bureau of Internal Revenue (BIR) zonal valuation.[84] The basic formula under DAR AO No. 7 (2011) appears to be the prevailing land formula to date.

F. Constitutional challenge to RA 6657

Shortly after the enactment of RA 6657, its constitutionality was challenged in a series of cases filed with the Court. Among other objections, landowners argued that entrusting to the DAR the manner of fixing just compensation violated judicial prerogatives. This claim was unanimously rejected in our landmark holding in *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform (Association)*:[85]

> Objection is raised, however, to the manner of fixing the just compensation, which it is claimed is entrusted to the administrative authorities in violation of judicial

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[80] An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution Of All Agricultural Lands, Instituting Necessary Reforms, Amending For The Purpose Certain Provisions Of Republic Act No. 6657, Otherwise, Known As The Comprehensive Agrarian Reform Law of 1988, As Amended, And Appropriating Funds Therefor.

[81] Rules and Regulations on Valuation and Landowners Compensation Involving Tenanted Rice and Corn Lands Under Presidential Decree (P.D.) No. 27 and Executive Order (E.O.) No. 228.

[82] Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands Under Republic Act (R.A.) No. 6657, as Amended.

[83] Part IV.1, DAR AO No. 1 (2010).

[84] Part IV.2, DAR AO No. 1 (2010) and Section 85, DAR AO No. 7 (2011).

[85] G.R. No. 78742, July 14, 1989, 175 SCRA 343.

prerogatives. Specific reference is made to Section 16(d), which provides that in case of the rejection or disregard by the owner of the offer of the government to buy his land—

> x x x [T]he DAR shall conduct summary administrative proceedings to determine the compensation for the land by 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 the 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.

To be sure, the determination of just compensation is a function addressed to the courts of justice and may not be usurped by any other branch or official of the government. [*EPZA v. Dulay*] resolved a challenge to several decrees promulgated by President Marcos providing that the just compensation for property under expropriation should be either the assessment of the property by the government or the sworn valuation thereof by the owner, whichever was lower. In declaring these decrees unconstitutional, the Court held through Mr. Justice Hugo E. Gutierrez, Jr.:

> The method of ascertaining just compensation under the aforecited decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render this Court inutile in a matter which under this Constitution is reserved to it for final determination.
>
> Thus, although in an expropriation proceeding the court technically would still have the power to determine the just compensation for the property, following the applicable decrees, its task would be relegated to simply *stating* the lower value of the property as declared either by the owner or the assessor. As a necessary consequence, it would be useless for the court to appoint commissioners under Rule 67 of the Rules of Court. Moreover, the need to satisfy the due process clause in the taking of private property is seemingly fulfilled since it cannot be said that a judicial proceeding was not had before the actual taking. However, the strict application of the decrees during the proceedings would be nothing short of a mere formality or charade as the court has only to choose between the valuation of the owner and that of the assessor, and its choice is always limited to the lower of the two. The court cannot exercise its discretion or independence in determining what is just or fair. Even a grade school pupil could substitute for the judge insofar as the determination of constitutional just compensation is concerned.

x x x

> In the present petition, we are once again confronted with the same question of whether the courts under P.D. No. 1533, which contains the same provision on just compensation as its predecessor decrees, still have the power and authority to determine just compensation, independent of what is stated by the decree and to this effect, to appoint commissioners for such purpose.
>
> This time, we answer in the affirmative.
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> x x x
>
> It is violative of due process to deny the owner the opportunity to prove that the valuation in the tax documents is unfair or wrong. And it is repulsive to the basic concepts of justice and fairness to allow the haphazard work of a minor bureaucrat or clerk to absolutely prevail over the judgment of a court promulgated only after expert commissioners have actually viewed the property, after evidence and arguments pro and con have been presented, and after all factors and considerations essential to a fair and just determination have been judiciously evaluated.

A reading of the aforecited Section 16(d) will readily show that it does not suffer from the arbitrariness that rendered the challenged decrees constitutionally objectionable. Although the proceedings are described as summary, the landowner and other interested parties are nevertheless allowed an opportunity to submit evidence on the real value of the property. But more importantly, the determination of the just compensation by the DAR is not by any means final and conclusive upon the landowner or any other interested party, for Section 16(f) clearly provides:

> Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

The determination made by the DAR is only *preliminary* unless accepted by all parties concerned. Otherwise, the courts of justice will still have the right to review *with finality* the said determination in the exercise of what is admittedly a judicial function.[86] (Emphasis and underscoring supplied. Citations omitted.)

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[86] *Id.* at 380-382.

G. Controlling doctrines after Association

Since this landmark ruling in *Association*, the Court has, over the years, set forth a finely wrought body of jurisprudence governing the determination of just compensation under RA 6657. This body of precedents is built upon three strands of related doctrines.

First, in determining just compensation, courts are obligated to apply both the compensation valuation factors enumerated by the Congress under Section 17 of RA 6657,[87] and the basic formula laid down by the DAR.[88] This was the holding of the Court on July 20, 2004 when it decided the case of *Landbank of the Philippines v. Banal*[89] (*Banal*) which involved the application of the DAR-issued formulas. There, we declared:

> While the determination of just compensation involves the exercise of judicial discretion, however, such discretion must be discharged within the bounds of the law. Here, the RTC wantonly disregarded R.A. 6657, as amended, and its implementing rules and regulations (DAR Administrative Order No. 6, as amended by DAR Administrative Order No. 11).
>
> x x x **In determining the valuation of the subject property, the trial court shall consider the factors provided under Section 17 of R.A. 6657, as amended, mentioned earlier. The formula prescribed by the DAR in Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994, shall be used in the valuation of the land.** Furthermore, upon its own initiative, or at the instance of any of the parties, the trial court may appoint one or more commissioners to examine, investigate and ascertain facts relevant to the dispute.[90] (Emphasis and underscoring supplied.)

Banal would thereafter be considered the landmark case on binding character of the DAR formulas. It would be cited in the greatest number of subsequent cases involving the issue of application of the DAR-issued formulas in the determination of just compensation.[91]

Second, the formula, being an administrative regulation issued by the DAR pursuant to its rule-making and subordinate legislation power under

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87 Comprehensive Agrarian Reform Law (1988).

88 *Landbank of the Philippines v. Banal*, G.R. No. 143276, July 20, 2004, 434 SCRA 543.

89 *Id.*

90 *Id.* at 554.

91 *Land Bank of the Philippines v. Escandor*, G.R. No. 171685, October 11, 2010, 632 SCRA 504, 513-514; *Land Bank of the Philippines v. Kumassie Plantation Company, Incorporated*, G.R. Nos. 177404 & 178097, December 4, 2009, 607 SCRA 365, 369; *Land Bank of the Philippines v. Heirs of Honorato de Leon*, G.R. No. 164025, May 8, 2009, 587 SCRA 454, 462; *Allied Banking Corporation v. Land Bank of the Philippines*, G.R. No. 175422, March 13, 2009, 581 SCRA 301, 311-312; *Land Bank of the Philippines v. Dumlao*, G.R. No. 167809, November 27, 2008, 572 SCRA 108, 129; *Land Bank of the Philippines v. Heirs of Eleuterio Cruz*, G.R. No. 175175, September 29, 2008, 567 SCRA 31, 39.

RA 6657, has the force and effect of law. Unless declared invalid in a case where its validity is directly put in issue, courts must consider their use and application.[92] In *Land Bank of the Philippines v. Celada*[93] (*Celada*), we held:

> As can be gleaned from above ruling, the SAC based its valuation solely on the observation that there was a "patent disparity" between the price given to respondent and the other landowners. We note that it did not apply the DAR valuation formula since according to the SAC, it is Section 17 of RA No. 6657 that "should be the principal basis of computation as it is the law governing the matter." The SAC further held that said Section 17 "cannot be superseded by any administrative order of a government agency," thereby implying that the valuation formula under DAR Administrative Order No. 5, Series of 1998 (DAR AO No. 5, s. of 1998), is invalid and of no effect.
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> While SAC is required to consider the acquisition cost of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declaration and the assessments made by the government assessors to determine just compensation, it is equally true that these factors have been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of RA No. 6657. As the government agency principally tasked to implement the agrarian reform program, it is the DAR's duty to issue rules and regulations to carry out the object of the law. DAR AO No. 5, s. of 1998 precisely "filled in the details" of Section 17, RA No. 6657 by providing a basic formula by which the factors mentioned therein may be taken into account. **The SAC was at no liberty to disregard the formula which was devised to implement the said provision.**
>
> It is elementary that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. **As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.**[94] (Emphasis and underscoring supplied.)

Third, courts, in the exercise of their judicial discretion, may relax the application of the formula to fit the peculiar circumstances of a case. They must, however, clearly explain the reason for any deviation; otherwise, they

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92 *Land Bank of the Philippines v. Celada*, G.R. No. 164876, January 23, 2006, 479 SCRA 495.
93 *Id.*
94 *Id.* at 506-507.

will be considered in grave abuse of discretion.[95] This rule, set forth in *Land Bank of the Philippines v. Yatco Agricultural Enterprises*[96] *(Yatco)*, was a qualification of the application of *Celada,* to wit:

> **That the RTC-SAC must consider the factors mentioned by the law (and consequently the DAR's implementing formula) is not a novel concept.** In *Land Bank of the Philippines v. Sps. Banal*, we said that the RTC-SAC **must consider** the factors enumerated under Section 17 of R.A. No. 6657, as translated into a basic formula by the DAR, in determining just compensation.
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> We stressed the RTC-SAC's duty to apply the DAR formula in determining just compensation in *Landbank of the Philippines v. Celada* and reiterated this same ruling in *Land Bank of the Philippines v. Lim*, *Land Bank of the Philippines v. Luciano*, and *Land Bank of the Philippines v. Colarina*, to name a few.
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> In the recent case of *Land Bank of the Philippines v. Honeycomb Farms Corporation*, we again affirmed the need to apply Section 17 of R.A. No. 6657 and DAR AO 5-98 in just compensation cases. There, we considered the CA and the RTC in grave error when they opted to come up with their own basis for valuation and completely disregarded the DAR formula. The need to apply the parameters required by the law cannot be doubted; the DAR's administrative issuances, on the other hand, partake of the nature of statutes and have in their favor a presumption of legality. Unless administrative orders are declared invalid or unless the cases before them involve situations these administrative issuances do not cover, the **courts must apply them.**
>
> **In other words, in the exercise of the Court's essentially judicial function of determining just compensation, the RTC-SACs are not granted unlimited discretion and must consider and apply the R.A. No. 6657 — enumerated factors and the DAR formula that reflect these factors.** These factors and formula provide the uniform framework or structure for the computation of the just compensation for a property subject to agrarian reform. This uniform system will ensure that they do not arbitrarily fix an amount that is absurd, baseless and even contradictory to the objectives of our agrarian reform laws as just compensation. This system will likewise ensure that the just compensation fixed represents, at the very least, a close approximation of the full and real value of the property taken that is fair and equitable for both the farmer-beneficiaries and the landowner.

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[95] *Land Bank of the Philippines v. Yatco Agricultural Enterprises,* G.R. No. 172551, January 15, 2014, 713 SCRA 370, 382-383.

[96] *Id.*

> **When acting within the parameters set by the law itself, the RTC-SACs, however, are not strictly bound to apply the DAR formula to its minute detail, particularly when faced with situations that do not warrant the formula's strict application; they may, in the exercise of their discretion, relax the formula's application to fit the factual situations before them. They must, however, clearly explain the reason for any deviation from the factors and formula that the law and the rules have provided.**
>
> The situation where a deviation is made in the exercise of judicial discretion should at all times be distinguished from a situation where there is utter and blatant disregard of the factors spelled out by law and by the implementing rules. For in such a case, the RTC-SAC's action already amounts to grave abuse of discretion for having been taken outside of the contemplation of the law.[97](Emphasis and underscoring supplied.)

Prescinding from *Association*, the cases of *Banal, Celada* and *Yatco* combined provide the three strands of controlling and unifying doctrines governing the determination of just compensation in agrarian reform expropriation.

For clarity, we restate the body of rules as follows: **The factors listed under Section 17 of RA 6657 and its resulting formulas provide a uniform framework or structure for the computation of just compensation which ensures that the amounts to be paid to affected landowners are not arbitrary, absurd or even contradictory to the objectives of agrarian reform. Until and unless declared invalid in a proper case, the DAR formulas partake of the nature of statutes, which under the 2009 amendment became law itself, and thus have in their favor the presumption of legality, such that courts shall consider, and not disregard, these formulas in the determination of just compensation for properties covered by the CARP. When faced with situations which do not warrant the formula's strict application, courts may, in the exercise of their judicial discretion, relax the formula's application to fit the factual situations before them, subject only to the condition that they clearly explain in their Decision their reasons (as borne by the evidence on record) for the deviation undertaken. It is thus entirely allowable for a court to allow a landowner's claim for an amount higher than what would otherwise have been offered (based on an application of the formula) for as long as there is evidence on record sufficient to support the award.**

In Part II, we shall evaluate the challenged rulings of the Court of Appeals based on the foregoing guidelines.

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[97] *Id.* at 381-383. Citations omitted.

II. The SAC deviated, without reason or explanation, from Sect. 17 and the DAR-issued formula when it adopted the Cuervo Report

Petitioner Alfonso challenges the Decision of the Court of Appeals which reversed the SAC's findings for failing to observe the procedure and guidelines provided under the relevant DAR rule.[98]

Applying DAR AO No. 5 (1998), the LBP and the DAR considered the following in its valuation of Alfonso's properties: (1) data from the Field Investigation Reports conducted on the properties;[99] (2) data from the Philippine Coconut Authority (PCA) as to municipal selling price for coconut in the Sorsogon Province;[100] and (3) the Schedule of Unit Market Value (SUMV).[101]

Due to the absence of relevant comparable sales transactions in the area,[102] the DAR and the LBP used the following formula:

LV = (CNI x 0.9) + (MV x 0.1)

It valued the San Juan and Bibincahan properties at ₱39,974.22[103] and ₱792,869.06,[104] respectively.

The SAC, in its Decision dated May 13, 2005, **rejected** this valuation for being "unrealistically low"[105] and instead adopted Commissioner Chua's Cuervo Report, which valued the San Juan and Bibincahan properties at the "more realistic" amounts of ₱442,830.00 and ₱5,650,680.00, respectively.[106]

That the SAC's adoption of the Cuervo Report valuation constitutes deviation from Section 17 and the prescribed formula is fairly evident.

Commissioner Chua employed a different formula, other than that set forth in DAR AO No. 5 (1998), to compute the valuation. While the DAR-issued formula generally uses the three (3) traditional approaches to value, each with assigned weights, Commissioner Chua chose to apply only two approaches, namely, the Market Data Approach (MDA) and the Capitalized Income Approach (CIA)[107] and *averaged* the indications resulting from the two approaches. He thereafter concluded that the result "reasonably represented the just compensation (fair market value) of the land with productive coconut trees."[108]

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98 *Rollo*, p. 31.
99 Records, pp. 85-101.
100 *Id.* at 152-153.
101 *Id.* at 154-159.
102 *Id.* at 145, 149.
103 *Id.* at 141, 145.
104 *Id.* at 141, 150.
105 *Id.* at 133.
106 *Id.* at 132. See also Exhibit " 1-o" and "1-p," Cuervo Report, pp. 17-18, records, p. 66.
107 Exhibit "1-j," Cuervo Report, p. 11, records, p. 66; records, p. 129.
108 Exhibit "1-o," Cuervo Report, p. 17, records, p. 66; records, p. 132.

In addition, in his computation of the CNI factor, Commissioner Chua used, without any explanation, a capitalization rate of eight percent (8%),[109] instead of the twelve percent (12%) rate provided under DAR AO No. 5 (1998).

As earlier explained, deviation from the strict application of the DAR formula is not absolutely proscribed. For this reason, we find that the Court of Appeals erred in setting aside the SAC's Decision *on the mere fact of deviation* from the prescribed legislative standards and basic formula. *Yatco* teaches us that courts may, in the exercise of its judicial discretion, relax the application of the DAR formula, subject only to the condition that the reasons for said deviation be clearly explained.

In this case, the SAC, in adopting the Cuervo Report valuation, merely said:

> Considering all these factors, the valuation made by the Commissioner and the potentials of the property, **the Court considers that the valuation of the Commissioner as the more realistic appraisal which could be the basis for the full and fair equivalent of the property taken from the owner while the Court finds that the valuation of the [LBP] as well as the Provincial Adjudicator of Sorsogon in this (sic) particular parcels of land for acquisition are unrealistically low.**[110] (Emphasis and underscoring supplied.)

The statement that the government's valuation is "unrealistically low," *without more*, is insufficient to justify its deviation from Section 17 and the implementing DAR formula.[111] There is nothing in the SAC's Decision to show *why* it found Commissioner Chua's method more appropriate for purposes of appraising the subject properties, apart from the fact that his method yields a much higher (thus, in its view, "more realistic") result.

The Cuervo Report itself does not serve to enlighten this Court as to the reasons behind the non-application of the legislative factors and the DAR-prescribed formula.

For example, the Cuervo Report cited a number of "comparable sales" for purposes of its market data analysis.[112] Aside from lack of proof of fact of said sales, the Report likewise failed to explain how these purported "comparable" sales met the guidelines provided under DAR AO No. 5 (1998). The relevant portion of DAR AO No. 5 (1998) reads:

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109 See Exhibit "1-m," Cuervo Report, p. 15, records, p. 66.
110 *Rollo*, p. 65.
111 *Land Bank of the Philippines v. Celada*, *supra* note 92 at 505-506.
112 Cuervo Report, pp. 12, 14, records, p. 66.

> II. C.2 The criteria in the selection of the comparable sales transaction (ST) shall be as follows:
>
> a. When the required number of STs is not available at the barangay level, additional STs may be secured from the municipality where the land being offered/covered is situated to complete the required three comparable STs. In case there are more STs available than what is required at the municipal level, the most recent transactions shall be considered. The same rule shall apply at the provincial level when no STs are available at the municipal level. In all cases, the combination of STs sourced from the barangay, municipality and province shall not exceed three transactions.
>
> b. The land subject of acquisition as well as those subject of comparable sales transactions should be similar in topography, land use, i.e., planted to the same crop. Furthermore, in case of permanent crops, the subject properties should be more or less comparable in terms of their stages of productivity and plant density.
>
> c. **The comparable sales transactions should have been executed within the period January 1, 1985 to June 15, 1988, and registered within the period January 1, 1985, to September 13, 1988.**
>
> d. STs shall be grossed up from the date of registration up to the date of receipt of CF by LBP from DAR for processing, in accordance with Item II.A.9. (Emphasis and underscoring supplied.)

To this Court's mind, a reasoned explanation from the SAC to justify its deviation from the foregoing guidelines is especially important considering that both the DAR and the LBP were unable to find sales of comparable nature.

Worse, further examination of the cited sales would show that the same far from complies with the guidelines as to the cut-off dates provided under the DAR AO No. 5 (1998). The purported sales were dated between November 28, 1989 (at the earliest) to March 12, 2002 (at the latest),[113] whereas DAR AO No. 5 (1998) had already and previously set the cut-off between June to September of 1988. We also note that these purported sales involve much smaller parcels of land (the smallest involving only 100 square meters). We can hardly see how these sales can be considered "comparable" for purposes of determining just compensation for the subject land.

Neither was there any explanation as to the glaring discrepancies between the government and Commissioner Chua's *factual* findings. Where, for example, the DAR and the LBP claim an average yield of

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[113] Cuervo Report, pp. 12, 14, records, p. 66.

666.67kg/ha.[114] and 952kgs./ha.,[115] the Cuervo Report asserts 1,656 kgs./ha. and 1,566 kgs./ha.,[116] for the San Juan and Bibincahan properties, respectively. Where the government alleges an average selling price of ₱5.58 for coconuts,[117] the Cuervo Report claims ₱12.50.[118] The Cuervo Report, however, is completely bereft of evidentiary support by which the SAC could have confirmed or validated the statements made therein. In contrast, the valuations submitted by the DAR and the LBP were amply supported by the relevant PCA data, SFMV and Field Investigation Reports.

Considering the foregoing, we cannot but conclude that the SAC committed the very thing cautioned about in *Yatco*, that is, "utter and blatant disregard of the factors spelled out by the law and by the implementing rules."[119] In this sense, we AFFIRM the Court of Appeals' finding of grave abuse of discretion and order the REMAND of the case to the SAC for computation of just compensation in accordance with this Court's ruling in *Yatco*.

Part III shall now address the concerns raised in the dissents.

III. The Dissents/Separate Concurring Opinion

A. Summary of issues raised Dissents/Separate Concurring Opinion

Justice Leonen proposes that this Court abandon the doctrines in *Banal* and *Celada*, arguing that Section 17 of RA 6657 and DAR AO No. 5 (1998) are unconstitutional to the extent they suggest that the basic formula is mandatory on courts.[120] His principal argument is grounded on the premise that determination of just compensation is a judicial function. Along the same lines, Justice Carpio cites *Apo Fruits Corporation v. Court of Appeals* (*Apo Fruits*)[121] to support his view that the basic formula "does not and cannot strictly bind the courts."[122] Justice Velasco, for his part, calls for a revisit of the decided cases because a rule mandating strict application of the DAR formula could only straitjacket the judicial function. Justice Carpio also raises an issue of statutory construction.[123] He argues that Section 17 and DAR AO No. 5 (1998) apply only when the landowner and the tenant agree on the proffered value, but not otherwise.

B. Dissents as indirect constitutional attacks

At this juncture, we emphasize that petitioner Alfonso never himself questioned the constitutionality of Section 17 of RA No. 6657 and the DAR

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[114] *Id.* at 145.
[115] *Id.* at 149.
[116] Exhibit "1-n," Cuervo Report, p. 16, records, p. 66.
[117] *Id.* at 149.
[118] Exhibit "1-n," Cuervo Report, p. 16, records, p. 66.
[119] *Supra* note 95 at 383.
[120] Dissenting Opinion of Justice Leonen, p. 22.
[121] *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, December 19, 2007, 541 SCRA 117.
[122] Separate Concurring Opinion of Justice Carpio, pp. 4-5.
[123] Dissenting Opinion of Justice Velasco, p. 20.

Administrative Order implementing the same. The main thrust of Alfonso's petition concerns itself only with the non-binding nature of Section 17 of RA 6657 and the resulting DAR formula in relation to the judicial determination of the just compensation for his properties.

Petitioner is a direct-injury party who could have initiated a direct attack on Section 17 and DAR AO No. 5 (1998). His failure to do so prevents this case from meeting the "case and controversy" requirement of *Angara.*[124] It also deprives the Court of the benefit of the "concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."[125]

The dissents are, at their core, indirect attacks on the constitutionality of a provision of law and of an administrative rule or regulation. This is not allowed under our regime of judicial review. As we held in *Angara v. Electoral Commission,*[126] our power of judicial review is limited:

> x x x **[T]o actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented.** Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.[127] (Emphasis supplied.)

Our views as individual justices cannot make up for the deficiency created by the petitioner's failure to question the validity and constitutionality of Section 17 and the DAR formulas. To insist otherwise will be to deprive the government (through respondents DAR and LBP) of their due process right to a judicial review made only "after full opportunity of argument by the parties."[128]

Most important, since petitioner did not initiate a direct attack on constitutionality, there is no factual foundation of record to prove the invalidity or unreasonableness of Section17 and DAR AO No. 5 (1998).

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[124] See also *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, G.R. Nos. 178552, 178554, 178581, 178890, 179157 & 179461, October 5, 2010, 632 SCRA 146, 176.

[125] *Association of Flood Victims v. Commission on Elections*, G.R. No. 203775, August 5, 2014, 732 SCRA 100, 108-109, citing *Integrated Bar of the Philippines v. Zamora*, G.R. No. 141284, August 15, 2000, 338 SCRA 81, 100.

[126] G.R. No. 45081, July 15, 1936, 63 Phil.139.

[127] *Id.* at 158-159.

[128] *Id.* at 158. Cited also in *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, supra* at 175-176.

This complete paucity of evidence cannot be cured by the arguments raised by, and debated among, members of the Court. As we held in *Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*:[129]

> It admits of no doubt therefore that there being a presumption of validity, **the necessity for evidence to rebut it is unavoidable, unless the statute or ordinance is void on its face, which is not the case here.** The principle has been nowhere better expressed than in the leading case of O'Gorman& Young v. Hartford Fire Insurance Co., where the American Supreme Court through Justice Brandeis tersely and succinctly summed up the matter thus: "[t]he statute here questioned deals with a subject clearly within the scope of the police power. We are asked to declare it void on the ground that the specific method of regulation prescribed is unreasonable and hence deprives the plaintiff of due process of law. **As underlying questions of fact may condition the constitutionality of legislation of this character, the presumption of constitutionality must prevail in the absence of some factual foundation of record for overthrowing the statute."** No such factual foundation being laid in the present case, the lower court deciding the matter on the pleadings and the stipulation of facts, the presumption of validity must prevail and the judgment against the ordinance set aside.[130] (Emphasis and underscoring supplied.)

Issues on the constitutionality or validity of Section 17 of RA 6657 and DAR AO No. 5 (1998) not having been raised by the petitioner, much less properly pleaded and ventilated, it behooves the Court to apply, not abandon, *Banal*, *Celada* and *Yatco*, and postpone consideration of the dissents' arguments in a case directly attacking Section 17 of RA 6657 and DAR AO No. 5 (1998).

If, however, left unanswered, the objections now casting Section 17 and the DAR formulas in negative light might be used as bases for the abandonment of the rule established in *Banal* and clarified in *Yatco*. The net practical effect, whether intended or not, of such a course of action would be to strip the implementing DAR regulations of all presumption of validity. We would then place upon the government the burden of proving the formula's appropriateness in every case, as against the valuation method chosen by the landowner, *whatever it may be*. It would allow the landowner to cherry-pick, so to speak, a factor or set of factors to support a proposed valuation method. As the case below has shown, such a process has allowed the SAC to conclude, without explanation, that Commissioner Chua's higher valuation was "more realistic" than the government's "ridiculously low" valuation and, therefore, in its opinion, more just.

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[129] G.R. No. L-24693, July 31, 1967, 20 SCRA 849.

[130] *Id.* at 857. Citations omitted. Cited in Bernas, CONSTITUTIONAL RIGHTS AND SOCIAL DEMANDS, NOTES AND CASES, PART II, 1996, pp. 36-37.

Allowing the SAC to arrive at a determination of just compensation based on open-ended standards like "more realistic" and "ridiculously low" bodes ill for the future of land reform implementation. One can only imagine the havoc such a ruling, made in the name of ensuring absolute freedom of judicial discretion, would have on the government's agrarian reform program and the social justice ends it seeks to further. It could open the floodgates to the mischief of the Garchitorena estate scandal where, to borrow terms used by the SAC in this case, a property acquired at a "ridiculously low" cost of ₱3.1 million was proposed to be purchased by the DAR for the "more realistic" amount of ₱6.09 million.

We thus feel compelled to address these issues, if only to assure those directly affected, that the law and the implementing DAR regulations are reasonable policy choices made by the Legislative and Executive departments on how best to implement the law, hence, the heavy premium given their application.

C. Primary jurisdiction and the judicial power/function to determine just compensation

Section 1, Article VIII of the 1987 Constitution[131] provides that "judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable."

The right of a landowner to just compensation for the taking of his or her private property is a legally demandable and enforceable right guaranteed by no less than the Bill of Rights, under Section 9, Article III of the Constitution.[132] The determination of just compensation in cases of eminent domain is thus an actual controversy that calls for the exercise of judicial power by the courts. This is what the Court means when it said that "[t]he determination of 'just compensation' in eminent domain cases is a judicial function."[133]

Before RA 6657, the courts exercised the power to determine just compensation under the Rules of Court. This was true under RAs 1400 and 3844 and during the time when President Marcos in Presidential Decree No. 1533 attempted to impermissibly restrict the discretion of the courts, as would be declared void in *EPZA v. Dulay (EPZA)*. RA 6657 changed this process by providing for preliminary determination by the DAR of just compensation.

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[131] Sec. 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

[132] This section provides: "Private property shall not be taken for public use without just compensation."

[133] *Export Processing Zone Authority (EPZA) v. Dulay*, G.R. No. L-59603, April 29, 1987, 149 SCRA 305, 316.

Does this grant to the DAR of primary jurisdiction to determine just compensation limit, or worse, deprive, courts of their judicial power? We hold that it does not. There is no constitutional provision, policy, principle, value or jurisprudence that places the determination of a justiciable controversy beyond the reach of Congress' constitutional power to require, through a grant of primary jurisdiction, that a particular controversy be first referred to an expert administrative agency for adjudication, subject to subsequent judicial review.

In fact, the authority of Congress to create administrative agencies and grant them preliminary jurisdiction flows not only from the exercise of its plenary legislative power,[134] but also from its constitutional power to apportion and diminish the jurisdiction of courts inferior to the Supreme Court.[135]

Tropical Homes, Inc. v. National Housing Authority,[136] has settled that "[t]here is no question that a statute may vest exclusive original jurisdiction in an administrative agency over certain disputes and controversies falling within the agency's special expertise."[137]

In *San Miguel Properties, Inc. v. Perez*,[138] we explained the reasons why Congress, in its judgment, may choose to grant primary jurisdiction over matters within the erstwhile jurisdiction of the courts, to an agency:

> **The doctrine of *primary jurisdiction* has been increasingly called into play on matters demanding the special competence of administrative agencies even if such matters are at the same time within the jurisdiction of the courts. A case that requires for its determination the expertise, specialized skills, and knowledge of some administrative board or commission because it involves technical matters or intricate questions of fact**, relief must first be obtained in an appropriate administrative proceeding before a remedy will be supplied by the courts although the matter comes within the jurisdiction of the courts. The application of the doctrine does not call for the dismissal of the case in the court but only for its suspension until after the matters within the competence of the administrative body are threshed out and determined.
>
> To accord with the doctrine of primary jurisdiction, the courts cannot and will not determine a controversy involving a question within the competence of an administrative tribunal, the controversy having been so placed within the special competence of the administrative

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[134] *Bank of Commerce v. Planters Development Bank*, G.R. Nos. 154470-71 & 154589-90, September 24, 2012, 681 SCRA 521, 564.

[135] *Pambujan Sur United Mine Workers v. Samar Mining Co., Inc.*, G.R. No. L-5694, May 12, 1954, 94 Phil. 932, 938. See also CONSTITUTION, Art. VIII, Sec. 2.

[136] G.R. No. L-48672, July 31, 1987, 152 SCRA 540.

[137] *Id.* at 548.

[138] G.R. No. 166836, September 4, 2013, 705 SCRA 38.

> tribunal under a regulatory scheme. In that instance, the judicial process is suspended pending referral to the administrative body for its view on the matter in dispute. Consequently, if the courts cannot resolve a question that is within the legal competence of an administrative body prior to the resolution of that question by the latter, especially where **the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative agency to ascertain technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered, suspension or dismissal of the action is proper.**[139] (Emphasis and underscoring supplied.)

Rule 43 of the Revised Rules of Court, which provides for a uniform procedure for appeals from a long list of quasi-judicial agencies to the Court of Appeals, is a loud testament to the power of Congress to vest myriad agencies with the preliminary jurisdiction to resolve controversies within their particular areas of expertise and experience.

In fact, our landmark ruling in *Association* has already validated the grant by Congress to the DAR of the primary jurisdiction to determine just compensation. There, it was held that RA 6657 does not suffer from the vice of the decree voided in *EPZA*,[140] where the valuation scheme was voided by the Court for being an "impermissible encroachment on judicial prerogatives."[141] In *EPZA*, we held:

> The method of ascertaining just compensation under the aforecited decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render this Court inutile in a matter which under the Constitution is reserved to it for final determination.
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> x x x [T]he strict application of the decrees during the proceedings would be nothing short of a mere formality or charade as the court has only to choose between the valuation of the owner and that of the assessor, and its choice is always limited to the lower of the two. The court cannot exercise its discretion or independence in determining what is just or fair. Even a grade school pupil could substitute for the judge insofar as the determination of constitutional just compensation is concerned.[142]

Unlike *EPZA*, and in answer to the question raised in one of the dissents,[143] the scheme provided by Congress under RA 6657 does **not** take discretion away from the courts in determining just compensation in agrarian cases. Far from it. In fact, **the DAR valuation formula is set up in such a**

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139 *Id.* at 60-61.
140 *Supra* at 133.
141 *Id.* at 311.
142 *Id.* at 311-312.
143 Dissenting Opinion of Justice Velasco, p. 17.

way that its application is dependent on the existence of a certain set of facts, the ascertainment of which falls within the discretion of the court.

Applied to the facts of this case, and confronted with the LBP/DAR valuation and the court-appointed commissioner's valuation, it was entirely within the SAC's discretion to ascertain the factual bases for the differing amounts and decide, for itself, which valuation would provide just compensation. If, in its study of the case, the SAC, for example, found that the circumstances warranted the application of a method of valuation different from that of the DAR's, it was free to adopt any other method it deemed appropriate (including the Cuervo method), subject only to the *Yatco* requirement that it provide a reasoned explanation therefor.

As pointed out earlier in this Opinion, however, the SAC in this case simply adopted the Cuervo valuation as the "more realistic" amount and rejected the DAR/LBP valuation for being "unrealistically low." In fact, there is nothing in its Decision to indicate that the SAC actually looked into the evidentiary bases for the opposing valuations to satisfy itself of the factual bases of each. This, in turn, explains the utter dearth of explanation for the stark inconsistencies between Commissioner Chua and the DAR/LBP's *factual* findings. Thus, and with all due respect, it is quite incorrect to say that the present rule requiring strict application of the DAR formula completely strips courts of any discretion in determining what compensation is just for properties covered by the CARP.

More importantly, in amending Section 17 of RA 6657, Congress provided that the factors **and** the resulting basic formula shall be "subject to the final decision of the proper court." Congress thus clearly conceded that courts *have* the power to look into the "justness" of the use of a formula to determine just compensation, and the "justness" of the factors and their weights chosen to flow into it.

In fact, the regulatory scheme provided by Congress in fact sets the stage for a *heightened* judicial review of the DAR's preliminary determination of just compensation pursuant to Section 17 of RA 6657. In case of a proper challenge, SACs are actually empowered to conduct a *de novo* review of the DAR's decision. Under RA 6657, a full trial is held where SACs are authorized to (1) appoint one or more commissioners,[144] (2) receive, hear, and retake the testimony and evidence of the parties, and (3) make findings of fact anew.[145] In other words, in exercising its **exclusive and original jurisdiction** to determine just compensation under RA 6657, the SAC is possessed with exactly the same powers and prerogatives of a Regional Trial Court (RTC) under Rule 67 of the Revised Rules of Court.

In such manner, the SAC thus conducts a more *exacting* type of review, compared to the procedure provided either under Rule 43 of the Revised Rules of Court, which governs appeals from decisions of

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[144] Republic Act No. 6657 (1988), Sec. 58.
[145] Republic Act No. 6657 (1988), Sec. 57.

administrative agencies to the Court of Appeals, or under Book VII, Chapter 4, Section 25[146] of the Administrative Code of 1987,[147] which provides for a default administrative review process. In both cases, the reviewing court decides based on the record, and the agency's findings of fact are held to be binding when supported by substantial evidence.[148] The SAC, in contrast, retries the whole case, receives new evidence, and holds a full evidentiary hearing.

Having established that the regulatory scheme under RA 6657 does not, in principle, detract from (but rather effectuates) the exercise of the judicial function, we shall now show how the DAR valuation process is at par with internationally-accepted valuation practices and standards.

H. DAR Valuation process is at par with international standards

Valuation is not an exact science.[149] In clear recognition of the inherent difficulty such a task entails, the DAR declared:

> Just compensation in regard to land cannot be an absolute amount disregarding particularities of productivity, distance to the marketplace and so on. Hence, land valuation is not an exact science but an exercise fraught with inexact estimates requiring integrity, conscientiousness and prudence on the part of those responsible for it. What is important ultimately is that the

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[146] This provision reads as follows:
Sec. 25. *Judicial Review.* –
(1) Agency decisions shall be subject to judicial review in accordance with this chapter and applicable laws.
(2) Any party aggrieved or adversely affected by an agency decision may seek judicial review.
(3) The action for judicial review may be brought against the agency, or its officers, and all indispensable and necessary parties as defined in the Rules of Court.
(4) Appeal from an agency decision shall be perfected by filing with the agency within fifteen (15) days from receipt of a copy thereof a notice of appeal, and with the reviewing court a petition for review of the order. Copies of the petition shall be served upon the agency and all parties of record. The petition shall contain a concise statement of the issues involved and the grounds relied upon for the review, and shall be accompanied with a true copy of the order appealed from, together with copies of such material portions of the records as are referred to therein and other supporting papers. The petition shall be under oath and shall how, by stating the specific material dates, that it was filed within the period fixed in this chapter.
(5) The petition for review shall be perfected within fifteen (15) days from receipt of the final administrative decision. One (1) motion for reconsideration may be allowed. If the motion is denied, the movant shall perfect his appeal during the remaining period for appeal reckoned from receipt of the resolution of denial. If the decision is reversed on reconsideration, the appellant shall have fifteen (15) days from receipt of the resolution to perfect his appeal.
(6) The review proceeding shall be filed in the court specified by statute or, in the absence thereof, in any court of competent jurisdiction in accordance with the provisions on venue of the Rules of Court.
(7) Review shall be made on the basis of the record taken as a whole. The findings of fact of the agency when supported by substantial evidence shall be final except when specifically provided otherwise by law.

[147] Executive Order No. 292.

[148] See Section 25(7), Chapter 4, Book VII of the Administrative Code of 1987 and *NGEI Multi-Purpose Cooperative, Inc. v. Filipinas Palmoil Plantation, Inc.*, G.R. No. 184950, October 11, 2012, 684 SCRA 152, 163.

[149] Prefatory Statement, DAR AO No. 5 (1998).

> land value approximates, as closely as possible, what is broadly considered to be just.[150]

Nevertheless, there are existing standards which are observed to ensure the competence and integrity of valuation practice. At present, we have the Philippine Valuation Standards (PVS), or the reference standards for local government assessors and other agencies undertaking property valuations.[151] The PVS are, in turn, based on the International Valuation Standards (IVS), also known as the Generally Accepted Valuation Principles (GAVP). The IVS represents the internationally accepted best practices in the valuation profession and were formulated by the International Valuations Standards Committee (IVSC).[152]

Of note is the IVSC's stature in the valuation profession. Composed of professional valuation associations from around the world, the IVSC is a non-governmental organization (NGO) member of the United Nations which provides advice and counsel relating to valuation and seeks to coordinate its Standards and work programs with related professional discipline in the public interest, and cooperates with international agencies in determining and promulgating new standards. It was granted Roster status with the United Nations Economic and Social Council in May 1985.[153]

There also exists a **process** which allows for a systematic procedure[154] to be followed in answering questions about real property value:

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[150] *Id.*

[151] See Prescribing the Philippine Valuation Standards (1st Edition) Adoption of the IVSC Valuation Standards under Philippine Setting, DOF Department Order No. 37-09 (2009). We also quote from *Philippine Valuation Standards, Adoption of the IVSC Valuation Standards under Philippine Setting*, 1st Edition, 2009, Department of Finance/Bureau of Local Government Finance, p. 1, which declares:

> The publication of these Philippine Valuation Standards (1st Edition) – Adoption of the IVSC Valuation Standards under the Philippine Setting is part of a wider on-going program of land reform in the Philippines. The Government has made a long-term commitment to alleviate poverty and to sustain economic growth by improving the land tenure security of the Filipino people and by fostering efficient land markets. This will be **achieved through a land reform program that promotes a clear, coherent and consistent set of land administration policies and laws; an efficient land administration system supported by a sustainable financing mechanism; and an effective and transparent land valuation system that is in line with internationally accepted standards.** (Emphasis and underscoring supplied.)

Note also that the Securities and Exchange Commission (SEC), for example, in its Guidelines for Asset Valuations, uses the IVS in its conduct of subject valuation engagement. (SEC Memorandum Circular No. 2 [2014])

[152] "x x x By promulgating internationally accepted standards and by developing their standards only after public disclosure, debate among nations, and liaison with other international standards bodies, the IVSC offers **objective, unbiased, and well-researched standards** that are a source of agreement among nations and provide guidance for domestic standards." THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 640. Emphasis supplied.

[153] PHILIPPINE VALUATION STANDARDS, ADOPTION OF THE IVSC VALUATION STANDARDS UNDER PHILIPPINE SETTING, 1st Edition, 2009, Department of Finance/Bureau of Local Government Finance, pp. 7-9.

[154] THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, pp. 49-51. See Figure 4.1.

Part One: Definition of the Problem						
Identification of client/intended users	Intended use of appraisal	Purpose of appraisal (including definition of value)	Date of opinion of value	Identification of characteristics of property (including location and property rights to be valued)	Extra-ordinary assumptions	Hypo-thetical conditions
Part Two: Scope of Work						
Part Three: Data Collection and Property Description						
Market Area Data		**Subject Property Data**		**Comparable Property Data**		
General characteristics of region, city and neighborhood		Specific characteristics of land and improvements, personal property, business assets, etc.		Sales, listings, offerings, vacancies, cost and depreciation, income and expenses, capitalization rates, etc.		
Part IV. Data Analysis						
Market Analysis				**Highest and Best Use Analysis**		
Demand studies Supply studies Marketability studies				Site as though vacant Ideal improvement Property as improved		
Part V. Land Value Opinion						
Part VI. Application of the Approaches to Value						
Cost		Sales Comparison		Income		
Part VII. Reconciliation of Value Indications and Final Opinion of Value						
Part VIII. Report of Defined Value						

Based on the foregoing, the process involves, among others, utilizing one or more valuation approaches, with each individual approach producing a particular value indication,[155] and thereafter, reconciling the different value indications to arrive at "a supported opinion of defined value."[156]

The valuation process is applied to develop a well-supported opinion of a defined value based on an analysis of pertinent general and specific data. Appraisers develop an opinion of property value with specific appraisal procedures that reflect the different approaches to data analysis.[157]

The PVS and the IVS, discussed earlier, list three market-based valuation approaches: the sales comparison approach, the income capitalization approach and the cost approach.[158]

The sales comparison approach considers the sales of similar or substitute properties and related market data, and establishes a value estimate by processes involving comparison. In general, a property being

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155 *Id.*
156 THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, pp. 597-603
157 *Id.* at 62.
158 *Id.*

valued is compared with sales of similar properties that have been transacted in the market.[159]

In the income capitalization approach, income and expense data relating to the property being valued are considered and value is estimated through a capitalization process. Capitalization relates income (usually a net income figure) and a defined value type by converting an income amount into a value estimate. This process may consider *direct* relationships (known as capitalization rates), yield or *discount* rates (reflecting measures of return on investment), or both.[160]

The cost approach considers the possibility that, as an alternative to the purchase of a given property, one could acquire a modern equivalent asset that would provide equal utility. In a real estate context, this would involve the cost of acquiring equivalent land and constructing an equivalent new structure. Unless undue time, inconvenience and risk are involved, the price that a buyer would pay for the asset being valued would not be more than the cost of the modern equivalent. Often the asset being valued will be less attractive than the cost of the modern equivalent because of age or obsolescence.[161]

These approaches are used in *all* estimations of value.[162] Depending on the circumstances attendant to each particular case, one or more of these approaches may be used.

The final analytical step in the valuation process is the reconciliation of the value indications derived into a single peso figure or a range into which the value will most likely fall:

> In the valuation process, more than one approach to value is usually applied, and each approach typically results in a different indication of value. If two or more approaches are used, the appraiser must reconcile at least two value indications. Moreover, several value indications may be derived in a single approach. x x x
>
> x x x Resolving the differences among various value indications is called *reconciliation*. x x x[163] (Emphasis supplied.)

Reconciliation requires appraisal judgment and a careful, logical analysis of the procedures that lead to each value indication. Appropriateness, accuracy and quantity of evidence are the criteria with which an appraiser forms a meaningful, defensible and credible final opinion of value.[164]

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159 THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 63.
160 *Id.* at 64-65.
161 *Id.* at 63.
162 *Id.* at 62.
163 *Id.* at 597.
164 *Id.* at 600.

The valuation process concludes with a final report/opinion of value. This reported value is the appraiser's *opinion*[165] and reflects the *experience and judgment* that has been applied to the study of the assembled data.[166]

For a well-supported opinion of a defined value, however, there must be an analysis of pertinent general and specific data[167] using an accepted and systematic valuation process. Following the generally accepted valuation process, there is an application of the appropriate approaches to value and, where multiple approaches have been employed, the reconciliation of the different value indications to arrive at a final opinion of value. Reconciliation, in large part, relies on the proper application of appraisal techniques and the *appraiser's judgment and experience*.[168]

The Philippines has kept abreast with the internationally-recognized and accepted standards for valuation practice.

As previously discussed, we already have the PVS used by local government assessors and other agencies in conducting property valuations.[169] There is also Republic Act No. 9646 (RA 9646), otherwise known as the Real Estate Service Act of the Philippines, which mandates the conduct of licensure examinations to ensure the technical competence, responsibility and professionalism of real estate practitioners in general (including appraisers, in particular).[170]

Actual valuation reforms to overcome the "multiplicity of fragmented policies and regulations which have previously characterized both the public and private sectors"[171] have also been undertaken. In April 2010, the Department of Finance (DOF) issued a Mass Appraisal Guidebook for the "operationalization and practical application of the Philippine Valuation Standards."[172] The PVS also appear in the Manual on Real Property Appraisal and Assessment Operations published by the DOF as guidelines to aid local assessors in discharging their functions.[173]

A Valuation Reform Act[174] is currently being proposed to harmonize valuation in *both* public and private sectors by providing uniform valuation

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165 *Id.* at 605-606.
166 *Id.* at 598.
167 *Id.* at 62.
168 *Id.* at 598.
169 See discussion on pp. 37-38.
170 Republic Act No. 9646 (2009), Sec. 2 and 12.
171 Prescribing the Philippine Valuation Standards (1st Edition) Adoption of the IVSC Valuation Standards under Philippine Setting, DOF Department Order No. 37-09 (2009). Introduction of the Philippine Valuation Standards (1st Edition)
172 Prescribing the "Mass Appraisal Guidebook: A Supplement to the Manual on Real Property Appraisal and Assessment Operations (with Expanded Discussions on Valuation of Special Purpose Properties and Plant, Machinery & Equipment)", DOF Department Order No. 10-2010 (2010). Message of Secretary Margarito B. Teves.
173 Department of Finance, Local Assessment Regulations No. 1-04 (2004).
174 Senate Bill No. 415 titled *The Real Property Valuation and Assessment Reform Act of 2013* filed in the Sixteenth Congress by Senator Ferdinand R. Marcos, Jr., per inquiry, still pending at this time.

standards which "shall conform with generally accepted international valuation standards and principles."[175]

The existence of these standards and measures highlights the emerging importance of valuation, not only in the context of land reform implementation, but as a profession, with high standards of competence, a distinct body of knowledge continually augmented by contributions of practitioners, and a code of ethics and standards of practice with members willing to be subject to peer review.[176]

An examination of the terms of the DAR issuances would show that the implementing agency has indeed taken pains to ensure that its valuation system is at par with local and international valuation standards. The pertinent portion of DAR AO No. 7 (2011) reads:

> Section 85. **Formula for Valuation.** The basic formula for the valuation of lands covered by VOS or CA shall be:
>
> **LV = (CNI x 0.60) + (CS x 0.30) + (MV x 0.10)**
>
> Where:
>
LV	=	Land Value
CNI	=	Capitalized Net Income (based on land use and productivity)
CS	=	Comparable Sales (based on fair market value equivalent to 70% of BIR Zonal Value)
MV	=	Market Value per Tax declaration (based on Government assessment)
>
> The CS factor refers to the **Market Data Approach under the standard appraisal approaches** which is based primarily on the principle of substitution where a prudent individual will pay no more for a property than it would **cost** to purchase a comparable substitute property. This factor is determined by the use of 70% of the BIR zonal valuation.
>
> The CNI factor, on the other hand, refers to the **Income Capitalization Approach under the standard appraisal approaches** which is considered the most applicable valuation technique for income-producing properties such as agricultural landholdings. Under this approach, the value of the land is determined by taking the sum of the net present value of the streams of income, in perpetuity, that will be forgone by the LO due to the coverage of his landholding under CARP.
>
> The MV factor is equivalent to the **Market Data Approach**, except that this is intended for taxation purposes only. (Emphasis and underscoring supplied.)

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[175] Section 12 of Senate Bill No. 415.

[176] THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 651.

The administrative order's express reference to "standard appraisal approaches," namely the Market Data Approach and the Income Capitalization Approach, as discussed earlier, is in line with the PVS and the IVS/GAVP.

I. The whole regulatory scheme provided under RA 6657 (and operationalized through the DAR formulas) are reasonable policy choices to best implement the purposes of the law

The whole regulatory scheme provided under RA 6657 (and implemented through the DAR formulas) are reasonable policy choices made by the Congress and the DAR on how best to implement the purposes of the CARL. These policy choices, in the absence of contrary evidence, deserve a high degree of deference from the Court.

On the Section 17 enumeration. Congress, in adopting Section 17, opted for the enumeration of multiple factors provided under RAs 1400 and 3844, to replace the exclusively production based formula provided in PD 27. The Court cannot now fault Congress for not enumerating *all* possible valuation factors, a task even this Court cannot conceivably achieve, and use the Congress' limitation as a reason to void the enumeration.

On the use of a formula. In the absence of evidence of record to the contrary, it is reasonable to assume that DAR decided that a formula is a practical method to arrive at a determination of just compensation due the landowner. This became necessary considering the multiple factors laid down by the Congress in Section 17. For one, the formulas provide a concrete, uniform and consistent equation, applicable to all agricultural land nationwide, regardless of their location. It thus assures prompt, consistent and even-handed implementation by limiting the exercise of discretion by DAR officials. We have also earlier noted how formulas worked in the agrarian reform programs of other Asian countries. Finally, we have also noted how the absence of a formula resulted in the Garchitorena estate scandal. The Garchitorena estate scandal underscores the wisdom of deferring to the DAR's choice to use a formula in its judgment, "uniformity of ruling is essential to comply with the purposes of [RA 6657]."[177]

On the choice of the formula's components and their weights. DAR reformulated its formulas every so often as it gained experience in its implementation. We can see from AO No. 5 (1998) that the DAR finally settled on two approaches to value: the income capitalization approach and the sales comparison approach, represented under the CNI and CS factors, respectively. While the cost approach was excluded, market value of the land as per tax declaration of the owner (MV) is nevertheless considered. DAR also decided on the relative weights to allocate to each component.

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[177] *San Miguel Properties, Inc. v. Perez*, *supra* note 138 at 61.

The inclusion of the CNI as a component factor was in apparent reaction to the suggestion of the UP-IAS study, which roundly criticized DAR AO No. 6 (1989) for not having considered the production income of the land. While the same study recommended that the appropriate formula should "value land based **only** on production/productivity,"[178] the DAR, however, chose to also consider comparable sales and market value as per tax declaration. This is in keeping with the mandate of Section 17 which provided that "current value of like properties" and "the sworn valuation by the owner, the tax declarations," and the "assessment made by government assessors" shall also be considered.

We note that while "cost of acquisition of the land" was also included as a factor to be considered in determining just compensation, it was not included as a component in the basic formula. Again, in the absence of contrary evidence of record, it is reasonable to assume that the DAR acted, on the knowledge that most agricultural lands are inherited. This makes their acquisition cost nil. To include the same as a component of the formula would only serve to reduce the resulting value, much to the prejudice of the landowner.[179]

On the formula as DAR's expert opinion. The general function of an appraisal or valuation exercise is to develop an *opinion* of a certain type of value.[180] This process, though subjective, is amenable to a rigorous process that should result in a *considered* opinion of value. As earlier discussed, there is an application of the generally accepted approaches to value and, where multiple approaches have been employed, the reconciliation of the different value indications to arrive at a final opinion of value.[181] In this case, the DAR, applying the law and using the accepted valuation process and approaches to value, acted no different from a valuation appraiser and gave an opinion as to what components make up the right formula.

Similar to the valuation profession which recognizes that the integrity and credibility of a valuation opinion rests in large part on the appraiser's judgment and experience,[182] the DAR's choices on the formula's component parts and their corresponding weights was based on its expertise, judgment and actual experience in the field of agrarian reform. We have taken pains to show how the DAR formula, and valuation process, is consistent and at par with recognized, international relation processes. There is no contrary evidence of record.

We shall now discuss the detailed arguments of the dissents as they relate to the DAR formulas.

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[178] Institute of Agrarian Studies, College of Economics and Management, STUDIES ON AGRARIAN REFORM ISSUES, UPLB, College, Laguna, p. 91.

[179] Under Section Part II (E) and (F) of DAR AO No. 5 (1998), non-crop improvements introduced by the landowner are also compensated, with the valuation to be undertaken by the LBP.

[180] THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute p. 53.

[181] *Id.* at 508.

[182] *Id.*

J. Responses to specific arguments in the Dissents and Separate Concurring Opinion

Justice Leonen asserts that the Congress and the DAR failed to capture all the factors[183] (if not the "important,"[184] "highly influential,"[185] and "critical"[186] ones) to fully determine market value. Since the listing of factors in Section 17 is incomplete, any formula derived therefrom would also (and necessarily) be incomplete for purposes of arriving at just compensation.

We note that Justice Leonen cites the UP-IAS study in his dissent. This study analyzed the DAR formula under DAR AO No. 06 (1989). Our case now involves the DAR formula under DAR AO No. 5 (1998). Not only is the latter formula completely different from that under DAR AO No. 6 (1989), it has, as earlier discussed, already "improved" on the formula by incorporating the suggestions and recommendations of the UP-IAS study cited.

Furthermore, Justice Leonen did not point to a complete or exhaustive listing of factors upon which he based his assertion of the law's incompleteness. Neither did he show how courts are to actually approach valuation (in the absence of Section 17 and the implementing DAR formula) as to avoid "underrating the effect of each property's peculiarities."[187]

Even granting, for the sake of argument, that there is an *infinite* number of factors that can be considered in the valuation of property, we see no conceptual inconsistency between applying *a* formula to determine just compensation and giving all attendant factors due consideration.

This is evident when one considers the indispensability of the approaches to value in any estimation of value.[188] Following the generally-accepted valuation process, *after* all relevant market area data, subject property data and comparable property data have been gathered and analyzed,[189] the approaches to value will be applied[190] and the resulting value indications reconciled[191] to arrive at a final opinion of value. Thus, while there can arguably be an infinite number of factors that can be considered for purposes of determining a property's value, they would all ultimately be distilled into any one of the three valuation approaches. In fact, and as part of their discipline, appraisers are expected to "apply all the approaches that are applicable and for which there is data."[192]

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183 Dissenting Opinion of Justice Leonen, p. 14.
184 Dissenting Opinion of Justice Leonen, p. 17.
185 Dissenting Opinion of Justice Leonen, p. 16.
186 Dissenting Opinion of Justice Leonen, p. 16.
187 Dissenting Opinion of Justice Leonen, p. 18.
188 THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute p. 62.
189 Parts Three and Four of the Systematic Valuation Process. See Table at p. 38.
190 Part Six of the Systematic Valuation Process. *Id.*
191 Part Seven of the Systematic Valuation Process. *Id.*
192 THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 62.

Justice Leonen also seems to favor the use of the discounted cash flow (DCF)/discounted future income method (a variant of the yield capitalization technique) where the present DAR basic formula makes use of the direct capitalization technique.[193] He thereafter equates this to a lack of consideration for future income and ventures that, in turn, might be the reason why landowners always feel that the DAR/LBP assessment is severely undervalued.[194]

We disagree. Direct capitalization and yield capitalization are *both* methods used in the income capitalization approach to value.

> Direct capitalization is distinct from yield capitalization x x x in that the former does not directly consider the individual cash flows beyond the first year. Although yield capitalization explicitly calculates year-by-year effects of potentially changing income patterns, changes in the original investment's value, and other considerations, direct capitalization processes a single year's income into an indication of value. x x x[195]

In fact, *and applied to the same set of facts*, use of either method can be expected to produce similar results:

> x x x Either direct capitalization or yield capitalization may correctly produce a supportable indication of value when based on relevant market information derived from comparable properties, which should have similar income-expense ratios, land value-to-building value ratios, risk characteristics, and future expectations of income and value changes over a typical holding period. **A choice of capitalization method does not produce a different indication of value under this circumstance.**[196] (Emphasis supplied.)

Selection of the appropriate income capitalization method to use depends on the attendant circumstances. While direct capitalization is used when properties are already *operating on a stabilized basis*, it is not useful where the property sought to be valued is going through an initial lease-up or when *income and/or expenses are expected to change in an irregular pattern* over time. In the latter case, yield capitalization techniques are considered to be more appropriate.[197]

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[193] Here, the yield rate is applied to a set of projected income streams and a reversion to determine whether the investment property will produce a required yield given a known acquisition price. If the rate of return is known, DCF analysis can be used to solve for the present value of the property. If the property's purchase price is known, DCF analysis can be applied to find the rate of return. See THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 569.

[194] Dissenting Opinion of Justice Leonen, p. 15.

[195] THE APPRAISAL OF REAL ESTATE, 12th Edition, 2001, Appraisal Institute, p. 529.

[196] *Id.* at 529-530.

[197] *Id.* at 529.

In fact, the DAR uses yield capitalization methods where, based on its experience, such method is appropriate. In Joint Memorandum Circular No. 07, Series of 1999, for example, the DAR and the LBP revised their initial valuation guidelines for *rubber plantations*, to wit:

> I. PREFATORY STATEMENT
>
> The rubber plantation income models presented under the old rubber Land Valuation Guideline (LVG No. 6, Series of 1990) recognized the income of rubber plantations based on processed crumb rubber. However, **recent consultations with rubber authorities (industry, research, etc.) disclosed that the standard income approach to valuation should measure the net income or productivity of the land based on the farm produce (in their raw forms) and not on the entire agri-business income enhanced by the added value of farm products due to processing. Hence, it is more appropriate to determine the Capitalized Net Income (CNI) of rubber plantations based on the actual yield and farm gate prices of raw products (field latex and cuplump) and the corresponding cost of production.**
>
> There is also a growing market for old rubber trees which are estimated to generate net incomes ranging between P20,000 and P30,000 per hectare or an average of about P100 per tree, depending on the remaining stand of old trees at the end of its economic life. This market condition for old rubber trees was not present at the time LVG No. 6, Series of 1990, was being prepared. (The terminal or salvage value of old rubber trees was at that time pegged at only P6,000 per hectare, representing the amount then being paid by big landowners to contractors for clearing and uprooting old trees.)
>
> LVG No. 6, Series of 1990, was therefore revised to address the foregoing considerations and in accordance with DAR Administrative Order (AO) No. 05, Series of 1998. (Emphasis and underscoring supplied.)

What *can* be fairly inferred from the DAR's adoption of the direct capitalization method in its formula is the operational assumption[198] that the agricultural properties to be valued are, in general, operating on a stabilized basis, or are expected to produce on a steady basis. This choice of capitalization method is a policy decision made by the DAR drawn, we can presume, from its expertise and actual experience as the expert administrative agency.

Justice Velasco, for his part, calls for a revisit of the established rule on the ground that the same "have veritably rendered hollow and ineffective the maxim that the determination of just compensation is a judicial

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[198] Drawn from existing knowledge and actual experience in Philippine crop cycles.

function."[199] According to him, the view that application of the DAR formulas cannot be made mandatory on courts is buttressed by: (1) Section 50 of RA 6657 which expressly provides that petitions for determination of just compensation fall within the original and exclusive jurisdiction of the SACs;[200] (2) *Land Bank of the Philippines v. Belista*[201] which already settled that petitions for the determination of just compensation are excepted from the cases falling under the DAR's special original and exclusive jurisdiction under Section 57 of RA 6657; and (3) *Heirs of Lorenzo and Carmen Vidad v. Land Bank of the Philippines*, (*Heirs of Vidad*)[202] which held that the DAR's process of valuation under Section 16 of RA 6657 is only preliminary, the conclusion of which is not a precondition for purposes of invoking the SAC's original and exclusive jurisdiction to determine just compensation.

Justice Velasco correctly pointed out this Court's statement in *Belista* excepting petitions for determination of just compensation from the list of cases falling within the DAR's original and exclusive jurisdiction.[203] Justice Velasco is also correct when he stated that the Court, in *Heirs of Vidad*, summarized and affirmed rulings which "invariably upheld the [SAC's] original and exclusive jurisdiction x x x notwithstanding the seeming failure to exhaust administrative remedies before the DAR."[204] Later on, he would point out, again correctly, the seemingly conflicting rulings issued by this Court regarding the imposition upon the courts of *a* formula to determine just compensation.

We acknowledge the existence of statements contained in our rulings over the years which may have directly led to the inconsistencies in terms of the proper interpretation of the CARL. As adverted to earlier in this Opinion, this Court thus takes this case as a good opportunity to affirm, for the guidance of all concerned, what it perceives to be the better jurisprudential rule.

Justice Velasco reads both *Belista* and *Heirs of Vidad* as bases to show that SACs possess original and exclusive jurisdiction to determine just compensation, regardless of prior exercise by the DAR of its primary jurisdiction.

We do not disagree with the rulings in *Belista* and *Heirs of Vidad*, both of which acknowledge the grant of primary jurisdiction to the DAR, subject to judicial review. We are, however, of the view that the better rule would be to read these seemingly conflicting cases without having to disturb established doctrine.

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199 Dissenting Opinion of Justice Velasco, p. 18.
200 Dissenting Opinion of Justice Velasco, pp. 4-5.
201 G.R. No. 164631, June 26 2009, 591 SCRA 137; Dissenting Opinion of Justice Velasco, pp. 5-6.
202 G.R. No. 166461, April 30, 2010, 619 SCRA 609.
203 Dissenting Opinion of Justice Velasco, p. 5.
204 Dissenting Opinion of Justice Velasco, p. 8.

Belista, for example, should be read in conjunction with *Association*, the landmark case directly resolving the constitutionality of RA 6657. In *Association*, this Court unanimously upheld the grant of jurisdiction accorded to the DAR under Section 16 to preliminarily determine just compensation. This grant of primary jurisdiction is specific, compared to the general grant of quasi-judicial power to the DAR under Section 50. *Belista*, which speaks of exceptions to the **general** grant of quasi-judicial power under Section 50, cannot be read to extend to the **specific** grant of primary jurisdiction under Section 16.

Heirs of Vidad should also be read in light of our ruling in *Land Bank of the Philippines v. Martinez*,[205] another landmark case directly and affirmatively resolving the issue of whether the DAR's preliminary determination (of just compensation) can attain finality. While the determination of just compensation is an essentially judicial function, *Martinez* teaches us that the administrative agency's otherwise preliminary determination may become conclusive **not because judicial power was supplanted by the agency's exercise of primary jurisdiction but because a party failed to timely invoke the same.** The Court said as much in *Heirs of Vidad*:

> It must be emphasized that the taking of property under RA 6657 is an exercise of the State's power of eminent domain. The valuation of property or determination of just compensation in eminent domain proceedings is essentially a judicial function which is vested with the courts and not with administrative agencies. When the parties cannot agree on the amount of just compensation, only the exercise of judicial power can settle the dispute with binding effect on the winning and losing parties. **On the other hand, the determination of just compensation in the RARAD/DARAB requires the voluntary agreement of the parties. Unless the parties agree, there is no settlement of the dispute before the RARAD/DARAB, except if the aggrieved party fails to file a petition for just compensation on time before the RTC.**[206] (Emphasis and underscoring supplied.)

Considering the validity of the grant of primary jurisdiction, our ruling in *Heirs of Vidad* should also be reconciled with the rationale behind the doctrine of primary jurisdiction. In this sense, neither landowner nor agency can disregard the administrative process provided under the law without offending the already established doctrine of primary jurisdiction:

> x x x [I]n cases raising issues of fact not within the conventional experience of judges or cases requiring the exercise of administrative discretion, agencies created by Congress for regulating the subject matter should not be passed over. This is so even though the facts after they have

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[205] G.R. No. 169008, July 31, 2008, 560 SCRA 776.

[206] *Heirs of Lorenzo and Carmen Vidad v. Land Bank of the Philippines*, *supra* at 630.

> been appraised by specialized competence serve as a premise for legal consequences to be judicially defined. **Uniformity and consistency in the regulation of business entrusted to a particular agency are secured, and the limited functions of review by the judiciary are more rationally exercised, by preliminary resort for ascertaining and interpreting the circumstances underlying legal issues to agencies that are better equipped than courts by specialization, by insight gained through experience, and by more flexible procedure.**[207] (Emphasis supplied.)

Arguing against the binding nature of the DAR formula, Justice Carpio, in his Separate Concurring Opinion, cites *Apo Fruits*[208] which held, to wit:

> What is clearly implicit, thus, is that the basic formula and its alternatives—administratively determined (as it is not found in Republic Act No. 6657, but merely set forth in DAR AO No. 5, Series of 1998)—although referred to and even applied by the courts in certain instances, does not and cannot strictly bind the courts. x x x[209]

The argument of *Apo Fruits* that the DAR formula is a mere administrative order has, however, been completely swept aside by the amendment to Section 17 under RA 9700. To recall, Congress amended Section 17 of RA 6657 by expressly providing that the valuation factors enumerated be "translated into a basic formula by the DAR x x x." This amendment converted the DAR basic formula into a requirement of the law itself. In other words, the formula ceased to be merely an administrative rule, presumptively valid as *subordinate legislation* under the DAR's rule-making power. The formula, now part of the *law* itself, is entitled to the presumptive constitutional validity of a *statute*.[210] More important, *Apo Fruits* merely states that the formula cannot "strictly" bind the courts. The more reasonable reading of *Apo Fruits* is that the formula does not strictly apply in certain circumstances. *Apo Fruits* should, in other words, be read together with *Yatco*.

Justice Carpio also raises an issue of statutory construction of Section 18 of RA 6657 in relation to Section 17. Section 18 reads:

> Sec. 18. *Valuation and Mode of Compensation.* — The LBP shall compensate the landowner in such amounts as may be agreed upon by the landowner and the DAR and the LBP, in accordance with the criteria provided for in Sections 16 and 17, and other pertinent provisions hereof, **or** as may be finally determined by the court, as the just compensation for the land.

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[207] *Far East Conference v. United States,* 342 U.S. 570, 574-575 (1952).

[208] *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, December 19, 2007, 541 SCRA 117.

[209] *Id.* at 131.

[210] See *Abakada Guro Party List V. Purisima*, G.R. No. 166715, August 14, 2008, 562 SCRA 251 as cited in *Dacudao v. Gonzales*, G.R. No. 188056, January 8, 2013, 688 SCRA 109.

The Justice reads Section 18 to mean that Section 17 and the implementing DAR formula operate only to qualify the offer to be made by the DAR and the LBP to the landowner. Section 17 is not a qualifying imposition on the court in its determination of just compensation. Stated differently, where there is disagreement on the issue of just compensation, Section 17 and the basic formula do not apply.

We disagree. Sections 16, 17 and 18 should all be read together in context[211] as to give effect to the law.[212] This is the essence of the doctrines we laid down in *Banal*, *Celada* and *Yatco*.

Section 16 governs the procedure for the acquisition of private lands. The relevant provision reads:

> Sec. 16. *Procedure for Acquisition of Private Lands.* — For purposes of acquisition of private lands, the following procedures shall be followed:
>
> (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.** x x x (Emphasis supplied.)

It is clear from the foregoing provision that the procedure for acquisition of private land is commenced by the DAR's notice of acquisition and offer of compensation to the landowner. At such point, the DAR does not know whether the landowner will accept its offer. Section 16(a), however, states *without qualification* that the DAR shall make the offer in accordance with Sections 17 and 18. In case the landowner does not reply or rejects the offer, then the DAR initiates summary administrative proceedings to determine just compensation, subject to the final determination of the court. In the summary proceedings, the DAR offer remains founded on the criteria set forth in Section 17. Section 16(a) did not distinguish between the situation where the landowner accepts the DAR's offer and where he/she does not. Section 17, as amended, itself also did not distinguish between a valuation arrived at by agreement or one adjudicated by litigation. Where the law does not distinguish, we should not distinguish.[213]

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[211] *Aisporna v. Court of Appeals*, G.R. No. L-39419, April 12, 1982, 113 SCRA 459, 467. See also *Civil Service Commission v. Joson, Jr.*, G.R. No. 154674, May 27, 2004, 429 SCRA 773, 786.

[212] In the interpretation of a statute, the Court should start with the assumption that the legislature intended to enact an effective law, and the legislature is not presumed to have done a vain thing in the enactment of a statute. As held by this Court in *Paras v. Commission on Elections,* G.R. No. 123169, November 4, 1996, 264 SCRA 49, 54-55: "An interpretation should, if possible, be avoided under which a statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative or nugatory."

[213] *Republic v. Yahon*, G.R. No. 201043, June 16, 2014, 726 SCRA 438, 454.

Section 18, on the other hand, merely recognizes the possibility that the landowner will disagree with the DAR/LBP's offer. In such case, and where the landowner elevates the issue to the court, the court needs to rule on the offer of the DAR and the LBP. Since the government's offer is required by law to be founded on Section 17, the court, in exercising judicial review, will necessarily rule on the DAR determination based on the factors enumerated in Section 17.

Now, whether the court accepts the determination of the DAR will depend on its exercise of discretion. This is the essence of judicial review. That the court *can* reverse, affirm or modify the DAR/LBP's determination cannot, however, be used to argue that Section 18 excuses observance from Section 17 in cases of disagreement.

Finally, there is no cogent policy or common sense reason to distinguish. Worse, this reading flies in the face of the contemporaneous interpretation and implementation given by the DAR and the LBP to Sections 16, 17 (as amended) and 18. DAR AO No. 5 (1998) expressly provides that the basic formula applies to both voluntary offers to sell and to compulsory acquisition.[214]

K. The matters raised by the dissents are better resolved in a proper case directly challenging Section 17 of RA 6657 and the resulting DAR formulas

The following central issues of fact underlying many of the arguments raised by the dissents are better raised in a case directly impugning the validity of Section 17 and the DAR formulas:

> *(1) Whether, under the facts of a proper case, the use of a basic formula (based on factors enumerated by Congress) to determine just compensation is just and reasonable.*

Evidence must be taken to determine whether, given the scale of the government's agrarian reform program, the DAR and the LBP (and later, Congress) acted justly and within reason in choosing to implement the law with the enumeration of factors in Section 17 and the use of a basic formula, *or*, whether, under the facts, it is more just and reasonable to employ a *case to case* method of valuation.

A core and triable question of fact is whether the DAR and the LBP can effectively and fairly implement a large scale land reform program without some guide to canalize the discretion of its employees tasked to undertake valuation. Otherwise stated, how can the DAR and the LBP commence CARP implementation if the different DAR and LBP employees tasked with making the offer, and spread nationwide, are each given complete discretion to determine value from their individual reading of

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[214] Part II, DAR AO No. 5 (1998). See also Section 85, DAR AO No. 7 (2011).

Section 17? This will resolve the factual underpinnings of the argument advanced that the valuation factors enumerated in Section 17 apply only where there is agreement on value as between the DAR/LBP and the landowner, but not when there is disagreement.

> *(2) Whether, under the facts of a proper case, the enumeration of the factors in Section 17 and the resulting formula, are themselves just and reasonable.*

To resolve this, there must be a hearing to determine: (a) whether, following generally-accepted valuation principles, the enumeration under Section 17 is sufficient or under-inclusive; (2) how the DAR arrived at selecting the components of the formula and their assigned weights; (3) whether there are fairer or more just and reasonable alternatives, or combinations of alternatives, respecting valuation components and their weights; and (4) whether the DAR properly computes or recognizes net present value under the CNI factor, and whether DAR employs a fair capitalization rate in computing CNI.

All things considered, it is important that the DAR and the LBP be heard so that they can present evidence on the cost and other implications of doing away with the use of a basic formula, or using a different mix of valuation components and weights.

IV. Conclusion

The determination of just compensation *is* a judicial function. The "justness" of the enumeration of valuation factors in Section 17, the "justness" of using a basic formula, and the "justness" of the components (and their weights) that flow into the basic formula, are all matters for the courts to decide. As stressed by *Celada*, however, until Section 17 or the basic formulas are declared invalid in a proper case, they enjoy the presumption of constitutionality. This is more so now, with Congress, through RA 9700, expressly providing for the mandatory consideration of the DAR basic formula. In the meantime, *Yatco*, akin to a legal safety net, has tempered the application of the basic formula by providing for deviation, where supported by the facts and reasoned elaboration.

While concededly far from perfect, the enumeration under Section 17 and the use of a basic formula have been the principal mechanisms to implement the just compensation provisions of the Constitution and the CARP for many years. Until a direct challenge is successfully mounted against Section 17 and the basic formulas, they and the collective doctrines in *Banal*, *Celada* and *Yatco* should be applied to all pending litigation involving just compensation in agrarian reform. This rule, as expressed by the doctrine of *stare decisis,* is necessary for securing certainty and stability of judicial decisions, thus:

> Time and again, the Court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere.* Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.[215]

This Court thus for now gives full constitutional presumptive weight and credit to Section 17 of RA 6657, DAR AO No. 5 (1998) and the resulting DAR basic formulas. To quote the lyrical words of Justice Isagani Cruz in *Association*:

> The CARP Law and the other enactments also involved in these cases have been the subject of bitter attack from those who point to the shortcomings of these measures and ask that they be scrapped entirely. To be sure, these enactments are less than perfect; indeed, they should be continuously re-examined and rehoned, that they may be sharper instruments for the better protection of the farmer's rights. But we have to start somewhere. In the pursuit of agrarian reform, we do not tread on familiar ground but grope on terrain fraught with pitfalls and expected difficulties. This is inevitable. The CARP Law is not a tried and tested project. On the contrary, to use Justice Holmes's words, "it is an experiment, as all life is an experiment," and so we learn as we venture forward, and, if necessary, by our own mistakes. We cannot expect perfection although we should strive for it by all means. Meantime, we struggle as best we can in freeing the farmer from the iron shackles that have unconscionably, and for so long, fettered his soul to the soil.[216]

For the guidance of the bench, the bar, and the public, we reiterate the rule: Out of regard for the DAR's expertise as the concerned implementing agency, courts should henceforth consider the factors stated in Section 17 of RA 6657, as amended, as translated into the applicable DAR formulas in their determination of just compensation for the properties covered by the said law. If, in the exercise of their judicial discretion, courts find that a strict

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[215] *Commissioner of Internal Revenue v. The Insular Life Assurance, Co., Ltd.*, G.R. No. 197192, June 4, 2014, 725 SCRA 94, 96-97.

[216] *Supra* note 85 at 392.

application of said formulas is not warranted under the specific circumstances of the case before them, they may deviate or depart therefrom, provided that this departure or deviation is supported by a reasoned explanation grounded on the evidence on record. In other words, courts of law possess the power to make a final determination of just compensation.[217]

A final note

We must be reminded that the government (through the administrative agencies) and the courts are not adversaries working towards different ends; our roles are, rather, complementary. As the United States Supreme Court said in *Far East Conference v. United States*:[218]

> x x x [C]ourt and agency are not to be regarded as wholly independent and unrelated instrumentalities of justice, each acting in the performance of its prescribed statutory duty without regard to the appropriate function of the other in securing the plainly indicated objects of the statute. **Court and agency are the means adopted to attain the prescribed end, and, so far as their duties are defined by the words of the statute, those words should be construed so as to attain that end through coordinated action.** Neither body should repeat in this day the mistake made by the courts of law when equity was struggling for recognition as an ameliorating system of justice; neither can rightly be regarded by the other as an alien intruder, to be tolerated if must be, but never to be encouraged or aided by the other in the attainment of the common aim.[219] (Emphasis supplied.)

The Congress (which wrote Section 17 and funds the land reform land acquisition), the DAR (author of DAR AO No. 5 [1998] and implementer of land reform), and the LBP (tasked under EO 405 with the valuation of lands) are partners to the courts. All are united in a common responsibility as instruments of justice and by a common aim to enable the farmer to "banish from his small plot of earth his insecurities and dark resentments and "rebuild in it the music and the dream."[220] Courts and government agencies must work together if we are to achieve this shared objective.

WHEREFORE, the petition is **PARTIALLY GRANTED**. Civil Case Nos. 2002-7073 and 2002-7090 are **REMANDED** to the Special Agrarian Court for the determination of just compensation in accordance with this ruling.

SO ORDERED.

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[217] See *Association of Small Landowners v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343 and *Heirs of Lorenzo and Carmen Vidad v. Land Bank of the Philippines*, G.R. No. 166461, April 30, 2010, 619 SCRA 609, 630.

[218] 342 U.S. 570 (1952).

[219] *Id.* at 575.

[220] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, *supra* note 85 at 393.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

(*No Part*)
MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE C. MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

see separate concurring opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M. V. F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.

MARIA LOURDES P. A. SERENO
Chief Justice