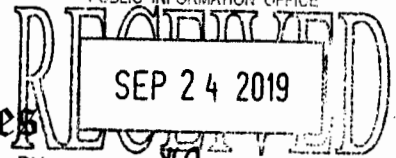




SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Republic of the Philippines  
Supreme Court  
Manila

BY: YCA  
TIME: 3:01

SECOND DIVISION

**FARMER-BENEFICIARIES  
BELONGING TO THE  
SAMAHANG MAGBUBUKID  
NG BAGUMBONG, JALAJALA,\*  
RIZAL,\*\* represented by their  
President, TORIBIO M.  
MALABANAN,**

Petitioners,

- versus -

**G.R. No. 229983**

Present:

CARPIO, Chairperson,  
PERLAS-BERNABE,  
CAGUIOA,  
J. REYES, JR., and  
LAZARO-JAVIER, JJ.

**HEIRS OF JULIANA  
MARONILLA, represented by  
ATTY. RAMON M.  
MARONILLA,**

Respondents.

Promulgated:

29 JUL 2019  
[Signature]

X-----X

DECISION

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated February 20, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 108543, which affirmed DARCO Order No. EX-0808-372, Series of

\* "Jala-jala" in some parts of the *rollo*.

\*\* Only the following farmer-beneficiaries signed the Special Power of Attorney (*rollo*, pp. 47-49) dated April 7, 2017 authorizing their averred President, Toribio M. Malabanan, to represent them in the instant petition, namely: Rodrigo D. Atienza, Eutiquiano R. Austria, Pedro E. Barrion, Antonia P. Bobadilla, Fernando B. Bonita, Luisito L. Bonita, Mateo P. Bonita, Marciano B. Cabrera, Wilfred B. Catindig, Celso D. Endon, German M. Endon, Ester M. Enriquez, Victorino M. Enriquez, Ernesto C. Garin, Clemente P. Lara, Jose S. Lizardo, Dionisio B. Llanto, Wilfredo O. Magpantay, Danilo B. Magpantay, Rodrigo S. Manguiat, Soriano D. Malabanan, Toribio M. Malabanan, Andres G. Manguiat, Fabian C. Manguiat, Gregorio L. Manguiat, Juanito G. Manguiat, Rodrigo G. Manguiat, Francisco M. Maray, Isagani Maray, Benjamin G. Maunahan, Jay B. Maunahan, Nicasio G. Maunahan, Nimesio G. Maunahan, Romeo G. Maunahan, Emilio C. Panganiban, Fidel C. Pedrigoza, Pablo C. Tuiza, Rizal P. Tuiza, Juan O. Vivas, Manolito O. Magpantay, and Mario O. Vivas.

<sup>1</sup> Id. at 8-A to 45.

<sup>2</sup> Id. at 51-66. Penned by Associate Justice Danton Q. Bueser with Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco, concurring.

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2008<sup>3</sup> dated August 29, 2008 issued by the Department of Agrarian Reform (DAR) Secretary, exempting a 447.4025-hectare (ha.) portion of the subject lands from the coverage of the Comprehensive Agrarian Reform Program (CARP),<sup>4</sup> conditioned on the payment of disturbance compensation to the affected tenants.

### The Facts

Juliana Maronilla (Juliana) is the registered owner of a vast tract of land with a total area of 723.9428 has.<sup>5</sup> situated in Brgy. Bagumbong, Jalajala, Rizal and Brgy. Casinsin, Pakil, Laguna, covered by Transfer Certificates of Title (TCT) Nos. 164410 to 164420<sup>6</sup> (inclusive) and 164430<sup>7</sup> to 164432<sup>8</sup> (inclusive;<sup>9</sup> collectively, subject lands). Following the implementation of Presidential Decree No. (PD) 27,<sup>10</sup> portions of the lands covered by TCT Nos. 164416 to 164420 (inclusive), 164430, and 164432 were placed under the government's Operation Land Transfer (OLT) program, and thus, certificates of land transfer (CLTs) were issued in favor of petitioners Farmer-Beneficiaries belonging to the *Samahang Magbubukid ng Bagumbong, Jalajala, Rizal* (petitioners)<sup>11</sup> and other farmer-beneficiaries (FBs).

On January 14, 1986, the President of the Philippines issued a memorandum directing the issuance of emancipation patents (EPs) to FBs of the OLT program.<sup>12</sup> Accordingly, EPs over the subject lands were issued by the DAR in favor of the FBs, which were thereafter registered (EP titles)

<sup>3</sup> Id. at 91-100. Penned by DAR Secretary Nasser C. Pangandaman.

<sup>4</sup> Proclamation No. 131, entitled "INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM" (July 22, 1987).

<sup>5</sup> See *rollo*, pp. 94-95.

<sup>6</sup> TCT Nos. 164410, 164412, and 164413 were not attached to the petition, which only included TCT Nos. 164411 and 164414 to 164420, among others, as annexes (see *id.* at 106-131).

Records show that the lands covered by TCT Nos. 164411 and 164414 to 164420 (inclusive) were among those foreclosed by the Philippine National Bank on September 25, 1973 (see *id.* at 52). On November 13, 1973, Juliana assigned the mortgaged properties to Alta Tierra Resources, Inc. (Alta Tierra; see *id.* at 53), which eventually redeemed the same. Despite the assignment, the properties remained in the name of Juliana. The parties eventually cancelled the assignment in Alta Tierra's favor on October 27, 1993.

<sup>7</sup> Id. at 132-134 (including reverse portions).

<sup>8</sup> Id. at 135-139 (including reverse portions).

The lands covered by TCT Nos. 164430 and 164432, among others, were mortgaged to and foreclosed by the Development Bank of the Philippines (DBP; see *id.* at 133.). The owner's copy of the said TCTs were lost, and thereafter, cancelled and declared null and void, resulting in the issuance of TCT Nos. (164430) M-10897 and (164432) M-13551 in lieu thereof (see *id.* at 133 and 136). Subsequently, DBP executed a quitclaim over the foreclosed properties in favor of Juliana (see *id.* at 134 [reverse portion]).

<sup>9</sup> TCT No. 164431 was likewise not attached to the petition, but appeared to have been sold already to Alta Tierra Resources, Inc. (see *id.* at 95).

<sup>10</sup> Entitled "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," approved on October 21, 1972.

<sup>11</sup> See *rollo*, p. 52.

<sup>12</sup> See *id.* at 53. While a copy of the said Memorandum was not attached to the petition, it appears that it authorized the then Ministry of Agrarian Reform to issue/distribute EPs to FBs regardless of amortization payments. This can be inferred from Ministry of Agrarian Reform Ministry Memorandum Circular No. 5, Series of 1986, Re: AUTHORITY TO ISSUE/DISTRIBUTE EMANCIPATION PATENTS TO FARMER-BENEFICIARIES REGARDLESS OF AMORTIZATION PAYMENTS dated May 7, 1986.

with the Register of Deeds of Rizal (RD-Rizal) between *October 24, 1988 and February 22, 1994* that partially cancelled Juliana's titles.<sup>13</sup>

On March 13, 1989, Juliana voluntarily offered the subject lands (VOS) for sale to the DAR pursuant to the CARP.<sup>14</sup> The DAR acquired the remaining portions undistributed under PD 27, and issued certificates of land ownership award (CLOAs) in favor of the FBs.<sup>15</sup> The corresponding titles (CLOA titles) were issued in the latter's favor between *December 15, 1993 and October 27, 1995*, which partially cancelled Juliana's titles.<sup>16</sup>

Sometime in March 1996, Juliana passed away.<sup>17</sup> On November 26, 1996, her heirs, herein respondents, represented by Atty. Ramon M. Maronilla (respondents), filed an application for retention<sup>18</sup> of a 60-ha. portion of the subject lands covered by TCT Nos. 164419 and 164420 located in Brgy. Casinsin, Pakil, Laguna.<sup>19</sup> The application was granted in an Order<sup>20</sup> dated December 12, 1997. Petitioners sought the recall/revocation of the said Order insofar as the parcels of land already apportioned to them, but the same was denied in an Order<sup>21</sup> dated August 15, 2008 which, however, reduced the retention area from 60 to 52 has. Petitioners' appeal to the Office of the President (O.P.), docketed as O.P. Case No. 08-K-440, was still pending when the instant petition was filed.<sup>22</sup>

Meanwhile, respondents filed an Application for Exemption Clearance from CARP Coverage (exemption case) of a 476.5006-ha.<sup>23</sup>

<sup>13</sup> The RD-Rizal issued TCTs in favor of the FBs on the following dates:

1. October 24, 1988 See id. at 116-117, 119 (reverse portion) to 120, 122 (reverse portion) to 123, 125 (reverse portion) to 127, and 129 (reverse portion) and 130 (reverse portion)
2. December 12, 1988 See id. at 133, and 136-137 (including reverse portion), and 138 (including reverse portion)
3. September 11, 1990 See id. at 127, 131, and 138 (reverse portion)
4. June 28, 1993 See id. at 139
5. February 24, 1994 See id.

<sup>14</sup> See id. at 140.

<sup>15</sup> See id. at 53.

<sup>16</sup> The RD-Rizal issued TCTs in favor of the FBs over the lands covered by the following titles:

1. TCT No. 164411 December 21, 1994 (see id. at 108, reverse portion).
2. TCT No. 164414 December 21, 1993 (see id. at 110-111); February 24, 1994 (see id. at 111);  
December 14, 1994 (see id. at 111, reverse portion).
3. TCT No. 164415 December 15, 1993 (see id. at 113); February 24, 1994 (see id. at 113, reverse portion).
4. TCT No. 164416 February 24, 1994 (see id. at 117).
5. TCT No. 164420 the portion reflecting the date of the inscription was not included in the photocopy of the said title attached to the records (see id. at 129).
6. TCT No. (164430) October 27, 1995 (see id. at 134).  
M-10897
7. TCT No. (164432) March 25, 1994 (see id. at 139), February 22, 1994, June 29, 1994, and  
M-13551 December 14, 1994 (see id. at 139, reverse portion).

<sup>17</sup> See id. at 54.

<sup>18</sup> See id.

<sup>19</sup> See id. at 146 and 151.

<sup>20</sup> Id. at 146-152. Issued by Regional Director Eugenio D. Bernardo.

<sup>21</sup> Not attached to the *rollo*.

<sup>22</sup> See *rollo*, p. 55. There is no information whether a decision has been rendered therein as of this date.

<sup>23</sup> See id. at 91.

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portion of the subject lands on the basis of Department of Justice (DOJ) Opinion No. 44, Series of 1990,<sup>24</sup> as implemented by DAR Administrative Order (AO) No. 6, Series of 1994.<sup>25</sup> They claimed that the lands had been classified as mineral, forest, residential, institutional, commercial or agro-industrial as early as July 11, 1981 in the Land Use Plan (LUP) of the Municipality of Jalajala, and in accordance with Zoning Ordinance No. 17,<sup>26</sup> approved on December 2, 1981 by the Human Settlements Regulatory Commission (HSRC), precursor of the Housing and Land Use Regulatory Board (HLURB), and as such, cannot be considered as agricultural lands within the contemplation of Republic Act No. (RA) 6657<sup>27</sup> or PD 27.<sup>28</sup> In support of the application, respondents submitted, among others, an HLURB Certification dated May 24, 1996, stating that per the approved LUP of Jalajala, the subject lands are zoned as follows:

TCT No.	Lot No.	PSD No.	Area [(Ha.)]	Zoning/Land Use
164410	1-A	56828	66.6220	Forest Conservation
164411	1-B	56828	59.1061	Forest Conservation/ Tree/ Diversified Crops
164412	1-C	56828	56.4944	Forest Conservation/ Tree/ Diversified Crops
164413	1-D	56828	66.8885	Forest Conservation/ Diversified Crops
164414	1-E	56828	53.0896	Forest Conservation/ Agro-industrial/ Riceland
164415	1-F	56828	50.2014	Forest Conservation/ Agro-industrial/ Tree/ Diversified Crops
164416	1-G	56828	52.2799	Riceland/ Agro-industrial/ Residential/ Institutional
164417	1-H	56828	43.0780	Riceland/ Agro-industrial/ Forest Conservation/ Residential/ Institutional
164418	1-I	56828	45.3631	Riceland/ Residential/ Institutional
164419	1-J	56828	49.7049	Riceland/ Residential/ Institutional
164420	1-K	56828	56.1463	Riceland/ Residential
(164430) 422059	3-J	56828	61.7208	Agro-industrial/ Forest Conservation/ Riceland

<sup>24</sup> Issued by then Secretary of Justice Franklin M. Drilon on March 16, 1990.

<sup>25</sup> Entitled "GUIDELINES FOR THE ISSUANCE OF EXEMPTION CLEARANCES BASED ON SEC. 3 (C) OF RA 6657 AND THE DEPARTMENT OF JUSTICE (DOJ) OPINION NO. 44[,] SERIES OF 1990," issued by then DAR Secretary Ernesto D. Garilao on May 27, 1994.

<sup>26</sup> Referred to as "HSRC Resolution No. R-36" dated December 2, 1981 in DARCO Order No. EX-0808-372, Series of 2008 dated August 29, 2008; *rollo*, p. 93.

<sup>27</sup> Entitled "AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES," otherwise known as the "COMPREHENSIVE AGRARIAN REFORM LAW OF 1988," approved on June 10, 1988.

<sup>28</sup> *Rollo*, pp. 55-56.

(164431) 422059	3-K	56828	51.7113	Riceland/ Agro-industrial
(164432) M-13551	3-L	56828	63.2478	Riceland/ Residential <sup>29</sup>

Respondents likewise submitted a Certification dated June 17, 1996 from the National Irrigation Administration (NIA) that the lands covered by TCT Nos. 164410 to 164413 (inclusive) are not: (a) irrigated by any national irrigation system; (b) covered by communal irrigation system within the Province of Rizal; and (c) part of any NIA rehabilitation/expansion of irrigation project, or any proposed NIA irrigation development/project with firm financing.<sup>30</sup> The DAR Center for Land Use, Policy, Planning and Implementation conducted an ocular inspection of the area,<sup>31</sup> accompanied by the Municipal Agrarian Reform Officer and the representatives of the parties,<sup>32</sup> where the following were noted:

	TCT No.	Lot No.	Area Per Title (Ha.)	Remarks
1	164410	1-A	66.6220	Forest Conservation. Covered under VOS. Planted with trees, root crops, etc.
2	164411	1-B	59.1061	Forest Conservation. Covered under VOS. Planted with root crops, banana.
3	164412	1-C	56.4944	Forest Conservation. Diversified Crops.
4	164413	1-D	66.8885	Forest Conservation. Diversified Crops.
5	164414	1-E	53.0896	Forest Conservation with Agro-industrial. Some portion is riceland. Covered under VOS and OLT.
6	164415	1-F	50.2014	Combination of Forest Conservation, Agro-industrial, Tree and Diversified Crops. Covered under VOS and OLT.
7	164416	1-G	52.2799	Majority of the lot is riceland with a little portion of [Agro-industrial] and Residential. Covered under VOS and OLT.
8	164417	1-H	43.0780	Riceland and Agro-industrial. A little portion of Residential. Covered under OLT.

<sup>29</sup> See id. at 92-93.

<sup>30</sup> See id. at 93.

<sup>31</sup> See id. at 56.

<sup>32</sup> See id. at 94.

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9	164418	1-I	45.3631	Riceland with irrigation canal. Covered under OLT. Planted with banana, mango, root crops like <i>camote</i> , okra. With shrubs and grasses. Some portion is Residential.
10	164419	1-J	49.7049	Riceland, mango trees. Covered under OLT.
11	164420	1-K	56.1463	Riceland and Residential. Covered under OLT. Planted with banana, mango, root crops like <i>patola</i> .
12	(164430) 422059	3-J	61.7208	Agro-industrial with a little portion of riceland. Covered under OLT.
13	(164431) 422059	3-K	[51.7113]	Riceland. Covered under OLT. Sold to Alta Tierra Resources, Inc.
14	(164432) M-13551	3-L	63.2478	Riceland and Residential. Covered under VOS. With mango trees.
			<b>723.9428<sup>33</sup></b>	

Petitioners intervened,<sup>34</sup> essentially averring that the zoning ordinance did not actually divest the subject lands of their original classification as agricultural, both in actual use and their nature; hence, they are not excluded or exempt from the operation of PD 27 or the CARP.<sup>35</sup> They further averred that assuming that the zoning had the effect of reclassifying the subject lands to non-agricultural lands, the same will not affect the coverage of the properties under the OLT program, considering that they had been devoted to rice and corn since October 21, 1972.<sup>36</sup>

Subsequently, the Exemption Committee recommended the exemption of a 447.4025-ha. portion of the subject lands from CARP coverage on the basis of HSRC Resolution No. 36, Series of 1981, which provided the classification of the subject lands as tabularized above.<sup>37</sup> It further recommended the cancellation of EPs<sup>38</sup> over the lands covered by TCT Nos. 164410, 164414, and 164415, as the same were found to be: (a) classified as Forest/Forest Conservation; (b) fully covered by forest trees with no traces of agricultural activities; and (c) within the slopes of the mountain; hence, outside the coverage of PD 27 pursuant to which the EPs were issued.<sup>39</sup> However, it recommended the denial of the application for

<sup>33</sup> See *id.* at 94-95.

<sup>34</sup> See Petition for Intervention Controverting the Application for Exemption Filed by the Heirs of Juliana Maronilla dated May 7, 2007; *id.* at 154-172.

<sup>35</sup> See *id.* at 156.

<sup>36</sup> See *id.* at 159.

<sup>37</sup> See *id.* at 96-97.

<sup>38</sup> A review of the records show that TCT No. 164410 is fully covered by EPs (see *id.* at 94), while the copy of TCT Nos. 164414 and 164415 attached to the petition show that they are covered by CLOAs (see *id.* at 110-111; including reverse portion, and 113; including reverse portion).

<sup>39</sup> See *id.* at 97-98.

exemption of a 29.0981<sup>40</sup> hectare portion of the lands covered by TCT Nos. 164417, (164430) M-10897, and (164432) M-13551 that were found to be ricelands already covered by EPs.<sup>41</sup> Its findings are hereunder tabularized:

TCT No.	Lot No.	Area Per Title (Ha.)	Area Applied (Ha.)	Recommended for Exemption (Ha.)	Bases/Reasons
164410	1-A	66.6220	66.6220	66.6220	HSRC Resolution No. 36, Series of 1981.
164411	1-B	59.1061	59.1061	59.1061	HSRC Resolution No. 36, Series of 1981.
164412	1-C	56.4944	56.4944	56.4944	HSRC Resolution No. 36, Series of 1981.
164413	1-D	66.8885	66.8885	66.8885	HSRC Resolution No. 36, Series of 1981.
164414	1-E	53.0896	44.8596	44.8596	HSRC Resolution No. 36, Series of 1981.
164415	1-F	50.2014	41.6364	41.6364	HSRC Resolution No. 36, Series of 1981.
164416	1-G	52.2799	3.7399	3.7399	HSRC Resolution No. 36, Series of 1981.
164417	1-H	43.0780	17.2879	15.6938	1.5941 hectare riceland issued with EPs, not exempted. HSRC Resolution No. 36, Series of 1981.

<sup>40</sup> Based on DARCO Order No. EX-0808-372, the DAR Secretary denied the application for exemption of the remaining "29.9081" has. of the subject portions (see id. at 99). It appears, however, that this figure is erroneous, considering that the Exemption Committee's recommendation, which was adopted by the DAR Secretary, was to deny the application of the "29.0981" ha. of the subject portions broken down as follows (see id. at 98):

Lot No.	Area (Ha)
1-H	1.5941
3-J	16.7959
3-L	10.7081
	29.0981

See also id. at 97-98.

<sup>41</sup> See id. at 97-99.

164418	1-I	45.3631	12.8800	12.8800	HSRC Resolution No. 36, Series of 1981.
164419	1-J	49.7049	11.4575	11.4575	HSRC Resolution No. 36, Series of 1981.
164420	1-K	56.1463	28.0450	28.0450	HSRC Resolution No. 36, Series of 1981.
(164430) 422059	3-J	61.7208	49.7508	32.9549	16.7959 hectare riceland issued with EPs, not exempted. HSRC Resolution No. 36, Series of 1981.
(164432) M-13551	3-L	63.2478	17.7325	7.0244	10.2081 hectare riceland issued with EPs, not exempted. HSRC Resolution No. 36, Series of 1981.
		<b>723.9428</b>	<b>476.5006</b>	<b>447.4025<sup>42</sup></b>	

### The DAR Secretary Ruling

On August 29, 2008, the DAR Secretary issued DARCO Order No. EX-0808-372, Series of 2008<sup>43</sup> (Exemption Order) adopting the recommendation of the Exemption Committee, thereby: (a) granting exemption of a 447.4025-ha. portion of the subject lands (subject portions) from CARP coverage, conditioned on the payment of disturbance compensation to the affected tenants within sixty (60) days from notice of the Exemption Order; and (b) denying the application for exemption of the remaining 29.0981 has. ricelands already covered by EPs.<sup>44</sup>

Petitioners moved for reconsideration,<sup>45</sup> which was denied in DARCO Order No. EX(MR)-0904-107, Series of 2009<sup>46</sup> dated April 1, 2009.

<sup>42</sup> See id. at 97.

<sup>43</sup> Id. at 91-100.

<sup>44</sup> See id. at 98-99.

<sup>45</sup> See Motion for Reconsideration dated September 23, 2008; id. at 196-204.

<sup>46</sup> Id. at 101-105.



Unperturbed, petitioners filed a petition for review<sup>47</sup> with the CA, docketed as CA-G.R. SP No. 108543, challenging, among others: (a) respondents' right to apply for CARP exemption as Juliana had no more propriety right to the subject lands after voluntarily offering the same for sale to the DAR for CARP purposes;<sup>48</sup> and (b) the jurisdiction of the DAR Secretary to nullify petitioners' EP and CLOA titles on the ground that the same falls within the competence of the Department of Agrarian Reform Adjudication Board (DARAB).<sup>49</sup>

### **The CA Ruling**

In a Decision<sup>50</sup> dated February 20, 2017, the CA upheld the jurisdiction of the DAR Secretary to nullify petitioners' EP and CLOA titles in accordance with present DAR implementing rules,<sup>51</sup> and affirmed the DAR Secretary's ruling that the lands covered by the Exemption Order are outside the coverage of PD 27 and the CARP as they have been classified as agro-industrial, residential, institutional, or forest/forest conservation.<sup>52</sup>

### **The Issues Before the Court**

The essential issues for the Court's resolution are whether or not the CA erred:

(1) in upholding the DAR Secretary's jurisdiction (a) to take cognizance of respondents' application for CARP exemption, and (b) to nullify petitioners' EP and CLOA titles covering the exempt portions; and

(2) in excluding the subject portions from CARP coverage.

### **The Court's Ruling**

#### **A. JURISDICTION OF THE DAR SECRETARY OVER APPLICATIONS FOR EXEMPTION PURSUANT TO DOJ OPINION NO. 44, SERIES OF 1990.**

It is settled that jurisdiction over the subject matter is conferred by law. The determination of the land's classification as agricultural or non-agricultural (*e.g.*, industrial, residential, commercial, *etc.*) and, in turn,

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<sup>47</sup> Id. at 67-90. Dated May 15, 2009.

<sup>48</sup> See id. at 80-82.

<sup>49</sup> See id. at 83-84.

<sup>50</sup> Id. at 51-66.

<sup>51</sup> See id. at 60-62.

<sup>52</sup> See id. at 64.

whether or not the land falls under agrarian reform exemption, must be preliminarily threshed out before the DAR,<sup>53</sup> particularly, the DAR Secretary,<sup>54</sup> pursuant to DAR AO No. 6, Series of 1994.<sup>55</sup> Verily, issues of exclusion or exemption partake the nature of Agrarian Law Implementation (ALI) cases which are well within the competence and jurisdiction of the DAR Secretary. Towards this end, the latter is ordained to exercise his legal mandate of excluding or exempting a property from CARP coverage based on the factual circumstances of each case and in accordance with the law and applicable jurisprudence. Thus, considering too his technical expertise on the matter, courts cannot simply brush aside his pronouncements regarding the status of the land in dispute, *i.e.*, as to whether or not it falls under CARP coverage.<sup>56</sup>

DAR AO No. 6, Series of 1994 vests in the DAR Secretary the authority to grant or deny the issuance of exemption clearances on the basis of Section 3 (c) of RA 6657, as amended, and DOJ Opinion No. 44, Series of 1990.

Section 3 (c) of RA 6657, as amended defines agricultural land, thus:

(c) Agricultural Land refers to land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land. (Underscoring supplied)

On the other hand, DOJ Opinion No. 44, Series of 1990 provides that all lands that have already been **classified as commercial, industrial or residential before June 15, 1988** no longer need any conversion clearance from the DAR in order to be exempt from CARP coverage.<sup>57</sup> However, an exemption clearance from the DAR, pursuant to DAR AO No. 6, Series of 1994, is still necessary to confirm or declare their exempt status.<sup>58</sup>

<sup>53</sup> See *DAR v. CA*, 718 Phil. 232, 248 (2013). See also Section 2, Rule I of DAR AO No. 03, Series of 2003, Re: 2003 Rules for Agrarian Law Implementation Cases, known as the "2003 RULES OF PROCEDURE FOR ALI CASES" (2003 ALI Rules), issued on January 16, 2003.

<sup>54</sup> Under DAR AO No. 6, Series of 1994, the application is filed with the proper *DAR Regional Office* which shall thereafter conduct a joint investigation with the duly authorized representatives of the Provincial and Municipal Offices of the DAR that have jurisdiction over the property. The investigation report shall then be forwarded to the *Regional Director* who shall prepare the Order for denial or grant of the exemption clearance. The exemption folder, together with the draft order, shall, in turn, be forwarded to the *Legal Affairs Office* of the DAR Central Office for its review, and then transmitted to the *Office of the Secretary* for signing.

<sup>55</sup> Section 12, Rule III of the 2003 ALI Rules excepts applications for land use conversion and exemption/exclusion from CARP coverage, and specified that they shall be governed by the special procedures therefor, which in this case is DAR AO No. 6, Series of 1994.

<sup>56</sup> See *DAR v. CA*, *supra* note 53, at 248.

<sup>57</sup> In *Natalia Realty, Inc. v. DAR* (G.R. No. 103302, August 12, 1993, 225 SCRA 278, 283), the Court ruled that lands already classified for residential, commercial or industrial use in town plans and zoning ordinances as approved by the HLURB and its precursor agencies prior to June 15, 1988 are outside the coverage of the CARP.

<sup>58</sup> See *Agrarian Reform Law and Jurisprudence* (A DAR-UNDP SARDIC Publication), <<http://www.lis.dar.gov.ph/documents/9269>> (visited July 5, 2019).

In *Heirs of Luna v. Afable* (702 Phil. 146, 170 [2013]), the Court had the occasion to declare that:

V

**B. JURISDICTION OVER CASES INVOLVING THE CANCELLATION OF EPs,  
CLOAs, AND OTHER AGRARIAN TITLES.**

Petitioners argue that the pertinent DARAB Rules of Procedure in force at the time of the filing of the exemption case provide that *registered* EPs and CLOAs may only be corrected or cancelled by order of the (Provincial or Regional) Adjudicator of the DARAB;<sup>59</sup> hence, the DAR Secretary has no jurisdiction to cancel their respective EP and CLOA titles.

The argument is untenable.

The fact that respondents sought the cancellation of petitioners' EPs and CLOAs does not necessarily mean that the application for CARP exemption falls under the jurisdiction of the DARAB. Verily, for the DARAB Adjudicator to acquire jurisdiction, the controversy must relate to an agrarian dispute between the landowners and tenants in whose favor the EPs and CLOAs have been issued by the DAR Secretary,<sup>60</sup> which is not extant here. An agrarian dispute, as defined by Section 3 (d) of RA 6657, as amended, refers "to any controversy relating to **tenurial arrangements**, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements."<sup>61</sup>

In this case, the consequent cancellation of the affected tenants' EP and CLOA titles does not arise from a controversy relating to any tenurial arrangement between petitioners and respondents in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangement, but from the fact that the lands involved are not covered by the CARP in the first place, rendering the issuance of said titles unwarranted. Thus, there exists no agrarian dispute nor any agrarian reform matter so as to situate the jurisdiction with the DARAB Adjudicator.

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Such exemption clearance does not mean that the DAR Secretary is exempting the land from CARL [(Referring to RA 6657)] coverage, with the implication that the land was previously covered; it simply means that **the CARL itself has, from the start, excluded the land from CARL coverage, and the DAR Secretary is only affirming such fact.** (Emphasis and underscoring supplied)

<sup>59</sup> Section 1 (6), Rule II of the DARAB 2003 Rules of Procedure adopted on January 17, 2003 provides:

Section 1. *Primary and Exclusive Original Jurisdiction.* – The Adjudicator shall have primary and exclusive jurisdiction to determine and adjudicate the following cases:

x x x x

1.6 Those involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority[.] (Emphasis supplied)

<sup>60</sup> *DAR v. Heirs of Abucay*, G.R. Nos. 186432 and 186964, March 12, 2019; *Sutton v. Lim*, 700 Phil. 67, 74 (2012).

<sup>61</sup> Emphasis supplied.

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Indisputably, the controversy between the parties herein is not agrarian in nature but merely involves the administrative implementation of the agrarian reform program which is cognizable by the DAR Secretary.<sup>62</sup>

Notably, while the DAR Secretary has the competence and jurisdiction over respondents' application for CARP exemption as expressed in DOJ Opinion No. 44, Series of 1990, it must be pointed out that a **separate case should nonetheless still be filed by respondents (also before the DAR)**<sup>63</sup> for the purpose of cancelling the EP and CLOA titles of the affected tenants. This is because "[a]grarian reform beneficiaries or identified beneficiaries, or their heirs in case of death, and/or their associations are **indispensable parties** in petitions for cancellation"<sup>64</sup> of the EPs/CLOAs, or other title issued to them under any agrarian reform program. Here, the DAR Secretary, in taking cognizance of respondents' application for CARP exemption, made neither a determination of the FBs' individual rights nor any declaration that specific TCTs were thereby cancelled. His resolution, which was affirmed by the CA, was limited to the determination of whether or not the subject portions are excluded from the coverage of the agrarian laws. As such, this case must only be confined to such matter, and that a separate proceeding must still be initiated impleading individual FBs to establish that the lands awarded to them fall within the excluded areas, warranting the cancellation of their respective EP or CLOA titles.

**C. LANDS ALREADY CLASSIFIED FOR RESIDENTIAL, COMMERCIAL OR INDUSTRIAL USE IN TOWN PLANS AND ZONING ORDINANCES AS APPROVED BY THE HLURB AND ITS PRECURSOR AGENCIES PRIOR TO JUNE 15, 1988 ARE OUTSIDE THE COVERAGE OF THE AGRARIAN LAWS.**

PD 27 covers private agricultural lands primarily devoted to rice and corn under a system of sharecrop or lease-tenancy, whether classified as landed estate or not, while RA 6657 covers all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. (EO) 229,<sup>65</sup> including other lands of the public domain suitable for agriculture, regardless of tenurial arrangement and commodity produced. Conversely,

<sup>62</sup> *Sutton v. Lim*, supra note 60, at 77.

<sup>63</sup> With the passage on August 7, 2009 of RA 9700, entitled "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" (July 1, 2009), further amending RA 6657, as amended, cases involving cancellation of titles issued under any agrarian program, whether or not registered with the Land Registration Authority, are now within the exclusive and original jurisdiction of the DAR Secretary. See *DAR v. Heirs of Abucay*, supra note 60, citing Section 24 of RA 6657, as amended by RA 9700.

<sup>64</sup> Section 3 (j), Article I of DAR AO No. 07, Series of 2014, entitled "2014 RULES AND PROCEDURES GOVERNING THE CANCELLATION OF REGISTERED EMANCIPATION PATENTS (EPs), CERTIFICATES OF LAND OWNERSHIP AWARDS (CLOAs), AND OTHER TITLES ISSUED UNDER THE AGRARIAN REFORM PROGRAM," issued on September 15, 2014; emphasis supplied.

<sup>65</sup> Entitled "PROVIDING THE MECHANISMS FOR THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM," approved on July 22, 1987.

lands not devoted to agricultural activity, including lands previously converted/reclassified to non-agricultural uses prior to the effectivity of RA 6657 by government agencies other than the DAR are outside the coverage of the agrarian laws,<sup>66</sup> subject to the qualification that such conversion/reclassification shall not operate to divest FBs of their rights over lands covered by PD 27 that have vested prior to June 15, 1988.<sup>67</sup>

DOJ Opinion No. 44, Series of 1990 recognized the authority of the HLURB, and its precursor, the HSRC, to approve and/or promulgate zoning and other land use control standards and guidelines which shall govern, among others, land use plans and zoning ordinances of local government units. Thus, **lands already classified as commercial, industrial or residential before June 15, 1988 no longer need any conversion clearance from the DAR in order to be exempt from CARP coverage.**

#### D. AUTHORITY TO CLASSIFY LANDS.

Preliminarily, it must be pointed out that the classification of land as agricultural constitutes a *primary* classification. Section 3,<sup>68</sup> Article XII of the Constitution provides for the *primary* classification of lands of the public domain into agricultural, forest or timber, mineral lands, and national parks. Under the Public Land Act, the responsibility over *primary* classification of lands of the public domain is vested in the President who exercises such power upon the recommendation of the Department of Environment and Natural Resources<sup>69</sup> (DENR). By virtue of PD 705,<sup>70</sup> otherwise known as the “Revised Forestry Code of the Philippines,” the President delegated to the DENR Secretary, among others, the power to classify unclassified lands of

<sup>66</sup> See *Natalia Realty Inc. v. DAR*, supra note 57, at 282-283. See also *Pasong Bayabas Farmers Association Inc. v. CA*, 473 Phil. 64, 92-94 (2004), and Section 10 of RA 6657.

<sup>67</sup> See third paragraph, Item II of DAR AO No. 6, Series of 1994.

<sup>68</sup> Section 3, Article XII of the 1987 CONSTITUTION pertinently provides:

Section 3. **Lands of the public domain are classified into agricultural, forest or timber, mineral lands and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted.** Alienable lands of the public domain shall be limited to agricultural lands. x x x.

x x x x (Emphasis supplied)

<sup>69</sup> Section 6 of Commonwealth Act No. 141, entitled “AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN,” otherwise known as “The Public Land Act” (December 1, 1936), provides:

Section 6. The President, upon the recommendation of the Secretary of Agriculture and Commerce [(now, DENR)], shall from time to time classify the lands of the public domain into —

- (a) Alienable or disposable,
- (b) Timber, and
- (c) Mineral lands,

and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.

The Department of Agriculture and Commerce (DAC) is now the DENR. See <<http://r7.denr.gov.ph/index.php/about-us/history>> (visited July 5, 2019).

<sup>70</sup> Entitled “REVISING PRESIDENTIAL DECREE NO. 389, OTHERWISE KNOWN AS THE FORESTRY REFORM CODE OF THE PHILIPPINES” (May 19, 1975).

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the public domain that are needed for forest purposes as permanent forest to form part of the forest reserves.<sup>71</sup>

The same provision of the Constitution also provides that agricultural lands of the public domain may be further classified according to the uses to which they may be devoted. This further classification of agricultural lands is referred to as *secondary* classification.<sup>72</sup>

The authority to reclassify agricultural lands into residential, commercial or industrial is lodged, among others, in cities and municipalities<sup>73</sup> (hereinafter, LGUs). Prior to the passage of the present Local Government Code of 1991, LGUs already have the power to reclassify agricultural into non-agricultural lands pursuant to Section 3<sup>74</sup> of RA 2264,<sup>75</sup> otherwise known as the “Local Autonomy Act of 1959,” which empowered municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. When city/municipal councils approve an ordinance delineating an area or district in their cities/municipalities as residential, commercial, or industrial zone pursuant to the power granted to them under the aforesaid provision, they are, at the same time, reclassifying any agricultural lands within the zone for non-agricultural use; hence, ensuring the implementation of and compliance with their zoning ordinances.<sup>76</sup> Pursuant to Letter of Instructions No. 729 dated August 9, 1978, LGUs were further required to submit their existing land use plans, zoning ordinances, and enforcement systems and procedures

<sup>71</sup> See *Republic v. Roxas*, 723 Phil. 279, 302 (2013).

<sup>72</sup> *Hermoso v. CA*, 604 Phil. 420, 428 (2009), citing *Agrarian Law and Jurisprudence*, Department of Agrarian Reform-United Nations Development Programme, 2000 ed., p. 6.

<sup>73</sup> Section 20 (a) of RA 7160, entitled “AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991,” otherwise known as the “LOCAL GOVERNMENT CODE OF 1991” (January 1, 1992), pertinently provides:

Section 20. *Reclassification of Lands.* – (a) A city or municipality may, through an ordinance passed by the *sanggunian* after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for **residential, commercial, or industrial purposes**, as determined by the *sanggunian* concerned[.] x x x.

x x x x (Emphasis supplied)

<sup>74</sup> Section 3. *Additional Powers of Provincial Boards, Municipal Boards or City Councils and Municipal and Regularly Organized Municipal District Councils.* – x x x.

x x x x

*Power to adopt zoning and planning ordinances.* – Any provision of law to the contrary notwithstanding, Municipal Boards or City Councils in cities, and Municipal Councils in municipalities are hereby authorized to adopt zoning and subdivision ordinances or regulations for their respective cities and municipalities subject to the approval of the City Mayor or Municipal Mayor, as the case may be. Cities and municipalities may, however, consult the National Planning Commission on matters pertaining to planning and zoning.

x x x x

<sup>75</sup> Entitled “AN ACT AMENDING THE LAWS GOVERNING LOCAL GOVERNMENTS BY INCREASING THEIR AUTONOMY AND REORGANIZING PROVINCIAL GOVERNMENTS” (June 19, 1959).

<sup>76</sup> *Heirs of Luna v. Afable*, supra note 58, at 168.

to the Ministry of Human Settlements for review, evaluation and approval, which functions were eventually devolved upon the HSRC.<sup>77</sup>

### E. APPLICATION TO THE CASE AT BAR.

In this case, the DAR Secretary excluded portions of the lands covered by TCT Nos. 164410 to 164415 (inclusive), 164417, and (164430) 422059<sup>78</sup> from CARP coverage on the basis of their reclassification as forest conservation zones pursuant to HSRC Resolution No. 36, Series of 1981, approving the LUP of Jalajala. On the other hand, the rest of the areas applied for exemption were excluded from the CARP on the basis of their HSRC-approved reclassification to agro-industrial, residential and institutional<sup>79</sup> under the LUP of Jalajala, save for the 29.0981-ha. riceland portions of TCT Nos. 164417,<sup>80</sup> (164430) M-10897,<sup>81</sup> and (164432) M-13551<sup>82</sup> that were found to be ricelands already covered by EPs.<sup>83</sup>

To recall, the CARP covers all public and private agricultural lands, as provided in Proclamation No. 131 and EO 229, including other lands of the public domain suitable for agriculture, regardless of tenurial arrangement and commodity produced. Section 3 (c) of RA 6657, as amended defines agricultural land as referring to “land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land.”<sup>84</sup> DAR AO No. 1, Series of 1990<sup>85</sup> clarified this definition<sup>86</sup> of “agricultural land” as follows:

<sup>77</sup> Under Section 5 (b) of Executive Order No. 648, entitled “REORGANIZING THE HUMAN SETTLEMENTS REGULATORY COMMISSION,” otherwise known as the “CHARTER OF THE HUMAN SETTLEMENTS REGULATORY Commission” (February 7, 1981), the HSRC has the power and duty to: “[r]eview, evaluate and approve or disapprove comprehensive land use development plans and zoning ordinances of local government; and the zoning component of civil works and infrastructure projects of national, regional and local governments; subdivisions, condominiums or estate development projects including industrial estates, of both the public and private sectors and urban renewal plans, programs and projects: *Provided, that the Land Use Development Plans and Zoning Ordinances of Local Governments herein subject to review, evaluation and approval of the commission shall respect the classification of public lands for forest purposes as certified by the Ministry of Natural Resources: Provided, further, that the classification of specific alienable and disposable lands by the Bureau of Lands shall be in accordance with the relevant zoning ordinance of Local government where it exists: and provided, finally, that in cities and municipalities where there are as yet no zoning ordinances, the Bureau of Lands may dispose of specific alienable and disposable lands in accordance with its own classification scheme subject to the condition that the classification of these lands may be subsequently changed by the local governments in accordance with their particular zoning ordinances which may be promulgated later.*” (Emphases supplied)

<sup>78</sup> The lands covered by TCT Nos. 164414, 164417, and (164430) 422059 are classified as forest conservation and agro-industrial.

<sup>79</sup> See *rollo*, pp. 92-93.

<sup>80</sup> Only a 1.5941-ha. portion of the lot covered by the said TCT was denied exclusion (see *id.* at 97 and 98), albeit, 27.3842 has. of the said land appeared to have been already issued EPs (*id.* at 94).

<sup>81</sup> Only a 16.7959-ha. portion of the lot covered by the said title was denied exclusion (see *id.* at 97 and 98), albeit, a substantial portion thereof have already been issued EPs and CLOAs in favor of the FBs (see *id.* at 94).

<sup>82</sup> Only a 10.7081-ha. portion of the lot covered by the said title was denied exclusion (see *id.* at 98), albeit, a substantial portion thereof have already been issued EPs and CLOAs in favor of the FBs (see *id.* at 94).

<sup>83</sup> See *id.* at 97-98.

<sup>84</sup> Underscoring supplied.



Agricultural land refers to those devoted to agricultural activity as defined in RA 6657 and **not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies** and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities **prior to 15 June 1988 for residential, commercial or industrial use.**<sup>87</sup> (Emphases supplied)

It is discernible from the foregoing definition that in order to be not considered agricultural land, and hence, not covered under the CARP, the land must not have been classified: *(a) as mineral or forest by the DENR and its predecessor agencies; and (b) for residential, commercial or industrial use in town plans and zoning ordinances* as approved by the HLURB and its preceding competent authorities prior to June 15, 1988. Therefore, the forest land referred to in Section 3 (c) of RA 6657, as amended is to be understood as referring to forest land declared to be such by the DENR, *i.e., **primary classification as forest***, and *not* its secondary classification by the LGUs. Consequently, **reclassification by LGUs of agricultural lands into “forest conservation zones,” which is in the nature of a secondary classification, does not have the effect of converting such lands into forest lands as to be exempt from CARP coverage.**<sup>88</sup>

In this case, the portions of the lands covered by TCT Nos. 164410 to 164415 (inclusive), 164417, and (164430) 422059 had been reclassified as forest conservation zones under the HSRC-approved LUP of the Municipality of Jalajala. Thus, being covered by a secondary, and not a primary, classification as above-discussed, these lands cannot be deemed as forest lands for purposes of CARP exemption **under Section 3 (c) of RA 6657, as amended.**

Nonetheless, the Court cannot discount the possibility that the said lands classified as forest conservation zones may fall within the **exemptions and exclusions provided under Section 10 (a) of RA 6657** if they are **actually, directly and exclusively used for parks, forest reserves,<sup>89</sup> reforestation<sup>90</sup> or watersheds.**<sup>91</sup> The said provision reads:

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<sup>85</sup> Entitled “REVISED RULES AND REGULATIONS GOVERNING CONVERSION OF PRIVATE AGRICULTURAL LANDS TO NON-AGRICULTURAL USES” dated March 22, 1990.

<sup>86</sup> See DAR AO No. 1, Series of 1990, re: REVISED RULES AND REGULATIONS GOVERNING CONVERSION OF PRIVATE AGRICULTURAL LANDS TO NON-AGRICULTURAL USES, issued by then DAR Secretary Florencio B. Abad on March 22, 1990.

<sup>87</sup> See Item III of DAR AO No. 1, Series of 1990; <<http://www.lis.dar.gov.ph/documents/377>> (visited July 5, 2019).

<sup>88</sup> See <<http://www.lis.dar.gov.ph/documents/9269>> (visited July 24, 2019).

<sup>89</sup> Section 3 of PD 705 defines “permanent forest” or “forest reserves” as referring to “those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes.”

<sup>90</sup> Section 2.7 of DENR AO No. 30, Series of 1992, RE: GUIDELINES FOR THE TRANSFER AND IMPLEMENTATION OF DENR FUNCTIONS DEVOLVED TO THE LOCAL GOVERNMENT UNITS (June 30, 1992), defines “contract reforestation” as “[t]he implementation of reforestation activities, including establishment, maintenance and protection of forest plantations and nursery preparations, through written agreements with the private sector such as families, communities and corporations and/or with the public sector like local government units (LGUs) and other government agencies (OGAs).”



Section 10. *Exemptions and Exclusions.* —

(a) Lands actually, directly and exclusively used for **parks**, wildlife, **forest reserves**, **reforestation**, fish sanctuaries and breeding grounds, **watersheds** and mangroves **shall be exempt from the coverage of this Act.** (Emphasis supplied)

Notably, DAR AO No. 13-90<sup>92</sup> provides for the rules and procedures governing exemption of lands from CARP Coverage under Section 10 of RA 6657, as amended, and pertinently states the guidelines to be observed in the application of the aforesaid provision of law, thus:

C. Lands which have been **classified or proclaimed, and/or actually, directly and exclusively used** and found to be necessary for **parks**, wildlife, **forest reserves**, fish sanctuaries and breeding grounds, and **watersheds** and mangroves **shall be exempted from the coverage of CARP** until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of public domain, as provided for under Sec. 4 (a) of R.A. 6657, and a reclassification of the said areas or portions thereof as alienable and disposable has been approved.

D. Lands which have been actually, directly and exclusively used and found to be necessary for **reforestation** are likewise **excluded and exempted from the coverage of the CARP, provided that the areas or portions thereof occupied by qualified forest occupants shall be included in the Integrated Social Forestry (ISF) program of DENR, if suitable.** (Emphases supplied)

Given that the status of the above-mentioned lands was not examined under the context of Section 10 (a) of RA 6657, as amended, the Court finds that there is a need to **refer**<sup>93</sup> the matter to the Office of the DAR Secretary<sup>94</sup> for the purpose of determining whether or not the same are actually, directly and exclusively used for parks, forest reserves, reforestation, or watersheds as to be exempt from CARP coverage in accordance with Section 10 (a) of RA 6657, as amended, pursuant to the guidelines set by DAR AO No. 13-90.

With respect to the lands covered by TCT Nos. 164414, 164415, 164416, 164417, and (164430) 422059<sup>95</sup> which have been *secondarily* reclassified as agro-industrial, the Court finds the DAR Secretary to have

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<sup>91</sup> Section 2.22 of DENR AO No. 30, Series of 1992, defines "small watershed areas" as referring to "forest lands identified and delineated by the DENR as sources of water supply for specific local communities."

<sup>92</sup> RE: RULES AND PROCEDURES GOVERNING EXEMPTION OF LANDS FROM CARP COVERAGE UNDER SECTION 10, R.A. 6657, adopted on August 30, 1990.

<sup>93</sup> The determination of the exemption of lands from CARP coverage under Section 10 of RA 6657, as amended, is covered by a different set of rules and procedures, *i.e.*, DAR AO No. 13-90, and would entail the issuance of a Certificate of Exemption, not an Exemption Clearance from CARP Coverage.

<sup>94</sup> Under Item IV (F) of DAR AO No. 13-90, the DAR Secretary shall approve or disapprove applications for exemption from CARP coverage for lands exceeding fifty (50) hectares.

<sup>95</sup> The lands covered by TCT Nos. 164414, 164417, and (164430) 422059 are classified as forest conservation and agro-industrial.

erred in excluding the same from the CARP pursuant to **Section 3 (c) of RA 6657, as amended**. DOJ Opinion No. 67, Series of 2006<sup>96</sup> dated September 25, 2006 provides that **agro-industrial lands are within the ambit or coverage of the definition of agricultural land** under Section 3 (c) of RA 6657, as amended, considering that: (a) they are neither included in the enumeration of exclusion provided in the said definition nor mentioned under Section 10<sup>97</sup> of the same law to be exempt from CARP coverage; and (b) the legislative intent to include agro-industrial land within the coverage of the agrarian reform program was specifically documented in the records of the Philippine Senate.<sup>98</sup>

Moreover, Section 4 (d) of RA 6657, as amended provides that the law covers “[a]ll private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.” In *Pasong Bayabas Farmers Association, Inc. v. CA*,<sup>99</sup> it was clarified that **agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial, and residential lands**. Thus, unless the agro-industrial land is shown to be not arable, or is devoted to exempt activities such as commercial livestock, poultry and swine

<sup>96</sup> Issued by then Secretary Raul M. Gonzalez.

<sup>97</sup> Section 10 of RA 6657, as amended by RA 7881, provides:

Section 10. *Exemptions and Exclusions*. —

(a) Lands actually, directly and exclusively used for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves shall be exempt from the coverage of this Act.

(b) Private lands actually, directly and exclusively used for prawn farms and fishponds shall be exempt from the coverage of this Act: *Provided*, That said prawn farms and fishponds have not been distributed and Certificate of Land Ownership Award (CLOA) issued to agrarian reform beneficiaries under the Comprehensive Agrarian Reform Program.

In cases where the fishponds or prawn farms have been subjected to the Comprehensive Agrarian Reform Law, by voluntary offer to sell, or commercial farms deferment or notices of compulsory acquisition, a simple and absolute majority of the actual regular workers or tenants must consent to the exemption within one (1) year from the effectivity of this Act. When the workers or tenants do not agree to this exemption, the fishponds or prawn farms shall be distributed collectively to the worker-beneficiaries or tenants who shall form a cooperative or association to manage the same.

In cases where the fishponds or prawn farms have not been subjected to the Comprehensive Agrarian Reform Law, the consent of the farm workers shall no longer be necessary, however, the provision of Section 32-A hereof on incentives shall apply.

(c) Lands actually, directly and exclusively used and found to be necessary for national defense, school sites and campuses, including experimental farm stations operated by public or private schools for educational purposes, seeds and seedling research and pilot production center, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent (18%) slope and over, except those already developed, shall be exempt from the coverage of this Act.

<sup>98</sup> See DOJ Opinion No. 67, Series of 2006, citing Volume 1, No. 93, Re: Discussion on Senate Bill No. 249 “An Act Instituting A Comprehensive Agrarian Reform Program To Promote Social Justice and Industrialization, Providing the Programs For Its Implementation, and For Other Purposes.”

<sup>99</sup> *Supra* note 66, at 92, citing *Luz Farms v. Secretary of the DAR*, 270 Phil. 151, 158-159 (1990) which, in turn, cited Record, CONCOM, August 7, 1986, Vol. III, p. 30.

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raising,<sup>100</sup> fishpond and prawn farming,<sup>101</sup> cattle-raising,<sup>102</sup> or other activities which do not involve the growing of crops and accordingly reclassified therefor, the said land shall be within the coverage of the CARP.

Accordingly, only the exclusion of the portions of the lands covered by TCT Nos. 164416, 164417, 164418, 164419, 164420, and (164432) M-13551 which have been reclassified as residential or institutional per the HSRC-approved LUP of Jalajala should be upheld since lands reclassified as non-agricultural prior to the effectivity of RA 6657 by government agencies other than the DAR are outside CARP coverage.<sup>103</sup>

However, it bears to stress that while DAR AO No. 6, Series of 1994 declares that the reclassification of lands to non-agricultural uses shall not operate to divest FBs of their rights over lands covered by PD 27, such **rights must have vested prior to June 15, 1988**.<sup>104</sup> Notably, the reclassification of the subject lands in 1981 came prior to the issuance and registration of EPs<sup>105</sup> and CLOAs<sup>106</sup> in favor of the FBs between October 24,

<sup>100</sup> See *Luz Farms v. Secretary of the DAR*, id. at 160.

<sup>101</sup> See *Atlas Fertilizer Corporation v. Secretary of the DAR*, G.R. Nos. 93100 and 97855, June 19, 1997, 274 SCRA 30, 34-36.

<sup>102</sup> See *DAR v. Sutton*, 510 Phil. 177, 185 (2005).

<sup>103</sup> See *Natalia Realty Inc. v. DAR*, supra note 57, at 282-283. See also *Pasong Bayabas Farmers Association Inc. v. CA*, supra note 66, and Section 10 of RA 6657.

<sup>104</sup> See third paragraph, Item II of DAR AO No. 6, Series of 1994.

<sup>105</sup> Among the FBs issued TCTs pursuant to PD 27 are the following petitioners:

Eutiquiano R. Austria	<i>Rollo</i> , pp. 133, 136
Pedro E. Barrion	Id. at 116, 119 (reverse portion)
Luisito L. Bonita	Id. at 116, 136
Mateo P. Bonita	Id. at 116, 120, 125 (reverse portion), 130 (reverse portion), 136
Marciano B. Cabrera	Id. at 136
Celso D. Endon	Id. at 123, 126
German M. Endon	Id. at 126, 130 (reverse portion),
Victorino M. Enriquez	Id. at 136
Ernesto C. Garin	Id. at 136
Clemente P. Lara	Id. at 133
Dionisio B. Llanto	Id. at 117, 138
Toribio M. Malabanan	Id. at 117, 138
Fabian C. Manguiat	Id. at 133, 138
Rodrigo G. Manguiat	Id. at 133
Benjamin G. Maunahan	Id. at 136
Nicasio G. Maunahan	Id. at 137
Nimesio G. Maunahan ("Nimecio G. Maunahan" in the TCTs)	Id. at 120, 123
Romeo G. Maunahan	Id. at 117, 137
Emilio C. Panganiban	Id. at 117, 120
Pablo C. Tuiza	Id. at 123, 126, 129 (reverse portion)
Rizal P. Tuiza	Id. at 123, 126
Juan O. Vivas	Id. at 136
Mario O. Vivas	Id. at 136, 137

<sup>106</sup> Among the FBs issued TCTs pursuant to RA 6657 are the following petitioners:

Rodrigo D. Atienza	Id. at 134
Antonia P. Bobadilla	Id. at 110
Fernando B. Bonita	Id. at 113
Luisito L. Bonita	Id. at 111

1988 and October 27, 1995, and way before the issuance of the January 14, 1986 memorandum of the President directing the issuance of EPs to the FBs of the OLT program pursuant to which EPs were issued to individual FBs. Since **the rights and responsibilities of beneficiaries shall only commence from their receipt of duly registered EPs<sup>107</sup> or CLOAs,<sup>108</sup>** undeniably, no vested rights had accrued in favor of the concerned FBs prior to the reclassification of the subject lands. Hence, the affected FBs cannot invoke the issuance of EP and CLOA titles in their favor as a bar to the exemption case.

In sum, the Court finds that the CA committed reversible error in upholding the DAR Secretary's ruling excluding: (a) portions of the lands covered by TCT Nos. 164410 to 164415 (inclusive), 164417 and (164430) 422059 on the basis of their HSRC-approved reclassification as forest conservation zone since only forest lands primarily classified by the DENR are exempt from CARP coverage pursuant to Section 3 (c) of RA 6657, as amended; and (b) portions of the lands covered by TCT Nos. 164414, 164415, 164416, 164417, and (164430) 422059 on the basis of their *secondary* reclassification as agro-industrial since agro-industrial lands are within the ambit or coverage of the definition of agricultural land, and as such, covered by the CARP. However, anent the lands in item (a), they may nonetheless be exempt from CARP coverage if they are actually, directly and exclusively used for parks, forest reserves, reforestation, or watersheds under Section 10 (a) of RA 6657, as amended upon determination of the Office of the DAR Secretary.

Ester M. Enriquez	Id. at 110, 111
Clemente P. Lara	Id. at 129
Jose S. Lizardo	Id. at 134
Danilo B. Magpantay	Id. at 108 (reverse portion), 110, 113, 113 (reverse portion)
Manolito O. Magpantay	Id. at 113
Wilfredo O. Magpantay	Id. at 113
Soriano D. Malabanan ("Soriano P. Malabanan" in the TCT)	Id. at 111 (reverse portion), 113 (reverse portion)
Andres G. Manguiat	Id. at 111
Gregorio L. Manguiat	Id. at 111
Juanito G. Manguiat	Id. at 111
Rodrigo G. Manguiat	Id. at 111, 129
Francisco M. Maray	Id. at 110
Benjamin G. Maunahan	Id. at 111, 129
Jay B. Maunahan	Id. at 110, 117
Nicasio G. Maunahan	Id. at 111
Fidel C. Pedrigoza	Id. at 113 (reverse portion)

<sup>107</sup> In *Davao New Town Development Corporation v. Spouses Saliga* (723 Phil. 353, 372 [2013]), the Court had the occasion to clarify that "while tenant farmers of rice and corn lands are 'deemed owners' as of October 21, 1972 following the provisions of P.D. No. 27, this policy should not be interpreted as automatically vesting in them absolute ownership over their respective tillage. The tenant-farmers must still first comply with the requisite preconditions, i.e., payment of just compensation and perfection of title before acquisition of full ownership." It pointed out that the issuance of the EP perfects the title of the tenant-farmers and vests in them absolute ownership upon full compliance with the prescribed requirements.

<sup>108</sup> See Section 24 of RA 6657, as amended by RA 9700.

On the other hand, the Court finds the CA to have correctly affirmed the exclusion of the portions of the lands covered by TCT Nos. 164416, 164417, 164418, 164419, 164420, and (164432) M-13551 which have been reclassified as residential or institutional.

Nonetheless, **before the application for exemption may be completely granted, payment of disturbance compensation to any affected tenants of the properly excluded portions – herein limited to the residential or institutional lands covered by TCT Nos. 164416, 164417, 164418, 164419, 164420, and (164432) M-13551 per the HSRC-approved LUP of Jalajala — must first be made.**<sup>109</sup> This is because once a leasehold relationship is established, the agricultural lessee is entitled to security of tenure and acquires the right to continue working on the landholding until such leasehold relation is extinguished,<sup>110</sup> and he/she is validly dispossessed thereof for cause, among others, the reclassification of the land into residential, commercial, industrial or some other urban purposes is upheld in a final and executory Court judgment, thereby entitling him to disturbance compensation.<sup>111</sup> In addition, the usufructuary rights of the affected FBs over their awarded lands shall not be diminished<sup>112</sup> pending the cancellation of their EP and CLOA titles in the proper proceedings.

Finally, contrary to petitioners' claim, the fact that Juliana had previously voluntarily offered to sell the subject lands to the DAR is inconsequential and is not a bar to the exemption case. It is settled that lands previously converted to non-agricultural uses/reclassified as non-agricultural prior to the effectivity of RA 6657 by government agencies other than the DAR are outside CARP coverage.<sup>113</sup> The basis for the exemption is not the withdrawal of the voluntary offer for sale (VOS) but the reclassification of the lands prior to June 15, 1988.<sup>114</sup> This being the case, **Juliana's previous VOS was ineffective because the subject lands cannot be the subject of**

<sup>109</sup> See *Roxas & Co., Inc. v. DAMBA-NFSW*, 622 Phil. 37, 80 (2009).

<sup>110</sup> See Section 7 of RA 3844, entitled "AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO INSTITUTE LAND REFORMS IN THE PHILIPPINES, INCLUDING THE ABOLITION OF TENANCY AND THE CHANNELING OF CAPITAL INTO INDUSTRY, PROVIDE FOR THE NECESSARY IMPLEMENTING AGENCIES, APPROPRIATE FUNDS THEREFOR AND FOR OTHER PURPOSES," otherwise known as the "AGRICULTURAL LAND REFORM CODE" (August 8, 1963), as amended by RA 6389, entitled "AN ACT AMENDING REPUBLIC ACT NUMBERED THIRTY-EIGHT HUNDRED AND FORTY-FOUR, AS AMENDED, OTHERWISE KNOWN AS THE AGRICULTURAL LAND REFORM CODE, AND FOR OTHER PURPOSES," otherwise known as the "CODE OF AGRARIAN REFORMS OF THE PHILIPPINES" (September 10, 1971).

<sup>111</sup> Section 36 of RA 3844, as amended by Section 7 of RA 6389, provides:

Section 36. *Possession of Landholding; Exceptions.* – Notwithstanding any agreement as to the period or future surrender, of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his **dispossession has been authorized by the Court in a judgment that is final and executory** if after due hearing it is shown that:

- (1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: *Provided*, That the agricultural lessee shall be entitled to **disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years**[,] (Emphases supplied)

<sup>112</sup> See *id.* See also Unsigned Resolution in *Alcantara v. DAR*, G.R. No. 203441, July 9, 2014.

<sup>113</sup> *Natalia Realty, Inc. v. DAR*, supra note 57.

<sup>114</sup> See DOJ Opinion No. 44, Series of 1990.

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**the same, they being clearly beyond CARP coverage.**<sup>115</sup> While the DAR subsequently issued DAR AO No. 09-90<sup>116</sup> (now DAR AO No. 07-11<sup>117</sup>), providing that “[a]ll lands which are voluntarily offered for sale to the government, except lands within the retention limits, may no longer be withdrawn and shall immediately fall under Phase I, as provided for in Section 7 of RA 6657,”<sup>118</sup> the same was not yet in effect at the time the VOS was made on March 13, 1989.<sup>119</sup>

**WHEREFORE**, the petition is **DENIED**. The Decision dated February 20, 2017 of the Court of Appeals in CA-G.R. SP No. 108543 is hereby **MODIFIED**, thereby **PARTIALLY APPROVING** the Application for Exemption Clearance from CARP Coverage only with respect to the portions of the parcels of land covered by Transfer Certificates of Title (TCT) Nos. 164416, 164417, 164418, 164419, 164420, and (164432) M-13551 in the name of Juliana Maronilla, located in Bagumbong, Jalajala, Rizal, which have been reclassified as residential and institutional. The issuance of the Exemption Clearance from CARP Coverage for the aforementioned lands is subject to the payment of disturbance compensation set by the Secretary of the Department of Agrarian Reform (DAR) in accordance with existing DAR administrative rules. Accordingly, the records of this case are hereby **REMANDED** to the Office of the DAR Secretary for proper disposition in accordance with this Decision.

Meanwhile, the matter of determining whether or not the portions of the lands covered by TCT Nos. 164410 to 164415 (inclusive), 164417, and (164430) 422059 are actually, directly and exclusively used for parks, forest reserves, reforestation, or watersheds as to be exempt/excluded from CARP coverage under Section 10 (a) of Republic Act No. 6657, as amended, is **REFERRED** to the Office of the DAR Secretary for proper disposition in accordance with DAR Administrative Order No. 13-90.

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<sup>115</sup> See *Rom v. Roxas & Company, Inc.*, 672 Phil. 342, 368 (2011).

<sup>116</sup> Entitled “REVISED RULES GOVERNING THE ACQUISITION OF AGRICULTURAL LANDS SUBJECT OF VOLUNTARY OFFER TO SELL AND COMPULSORY ACQUISITION PURSUANT TO RA 6657,” adopted on August 30, 1990; <<http://www.lis.dar.gov.ph/documents/446>> (visited July 5, 2019).

<sup>117</sup> Entitled “REVISED RULES AND PROCEDURES GOVERNING THE ACQUISITION AND DISTRIBUTION OF PRIVATE AGRICULTURAL LANDS UNDER REPUBLIC ACT (R.A.) NO. 6657, AS AMENDED,” adopted on September 30, 2011. <<http://www.lis.dar.gov.ph/documents/6436>> (visited July 5, 2019).


<sup>118</sup> Item III (B) of DAR AO No. 09-90. Section 28 of DAR AO No. 07-11 provides:

Section 28. *Period to File an Application/Petition for Exemption/Exclusion.* — The Application/Petition for Exemption or Exclusion from CARP coverage may be filed together with the above-mentioned Manifestation. If it is not filed jointly, the LO [(landowner)] can file it, together with the documents required by the rules on exemption or exclusion, within sixty (60) days from receipt of the NOC [(Notice of Coverage)]. Non-submission thereof within this reglementary period shall be construed as a waiver or abandonment of his/her/its right to file said Petition for Exemption or Exclusion from CARP coverage with respect to the landholding covered.

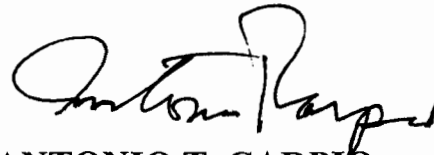
**For landholdings under VOS, the LO is deemed to have waived his/her/its right to file such a Petition for Exemption or Exclusion from CARP coverage upon DAR’s acceptance of his/her/its offer.** (Emphasis supplied)

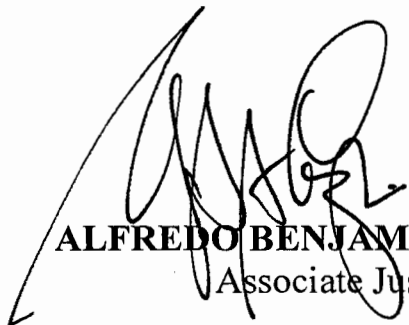
<sup>119</sup> See *rollo*, p. 140.

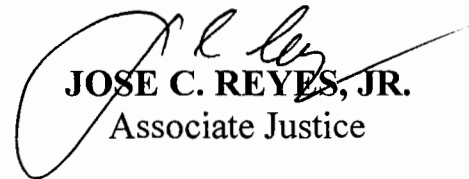
**SO ORDERED.**

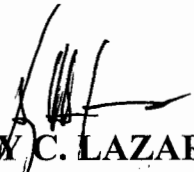
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

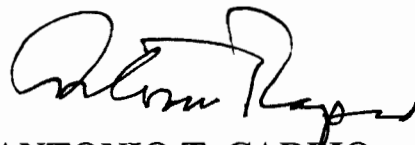
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

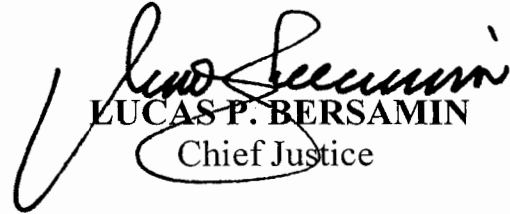
**ATTESTATION**

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

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson, Second Division

## CERTIFICATION

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

  
LUCAS P. BERSAMIN  
Chief Justice