



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

DAR ADMINISTRATIVE ORDER
NO. 05
Series of 2006

**SUBJECT: GUIDELINES ON THE ACQUISITION AND DISTRIBUTION OF
AGRICULTURAL LANDS SUBJECT OF CONVEYANCE
UNDER SECTIONS 6, 70 AND 73(a) OF R.A. NO. 6657**

I. PREFATORY STATEMENT

Section 6 paragraph 1 of R.A. No. 6657 (Comprehensive Agrarian Reform Law) provides that "...in no case shall retention by the landowner exceed five (5) hectares." Paragraph 4 of the same section further provides that "Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act..."

In relation thereto, Section 70 of the same law states:

"SECTION 70. Disposition of Private Agricultural Lands. – The sale or disposition of agricultural lands retained by a landowner as a consequence of Section 6 hereof shall be valid as long as the total landholdings that shall be owned by the transferee thereof inclusive of the land to be acquired shall not exceed the landholdings provided for in this Act.

Any sale or disposition of agricultural lands after the effectivity of this Act found to be contrary to the provisions hereof shall be null and void."

These provisions find further strength under Section 73 (a) of the same Act:

"SECTION 73. Prohibited Acts and Omissions. – The following are prohibited:

(a) The ownership or possession, for the purpose of circumventing the provisions of this Act, of agricultural lands in excess of the total retention limits or award ceilings by any person, natural or juridical, except those under collective ownership by farmer-beneficiaries."

Department of Justice (DOJ) Opinion No. 41 Series of 1992, further states that:

"xxxxx it is believed that it is legally proper for the Department of Agrarian Reform (DAR) to give clearance for the registration of titles of agricultural properties acquired prior to the effectivity of R.A. No. 6657, which were not registered within the 3-month period after such effectivity in cases where said

properties are voluntarily offered for sale to that Department for purposes of coverage.xxxxx”

Notwithstanding the clear prohibitions of the law and pertinent policies, circulars and opinions issued governing the treatment of illegally conveyed or transferred agricultural lands, there still appears some gaps on the procedures and processes relative to the coverage of said lands under CARP causing confusion and uncertainty from some quarters including DAR field personnel and delay in the payment of claims.

To strengthen and supplement the guidelines and ensure the coverage, acquisition and distribution of lands involving those subject of illegal transactions and pursuant to Sec. 49 of R.A. No. 6657, the following guidelines are hereby issued.

II. STATEMENT OF POLICIES

1. It is the policy of the DAR to acquire and distribute all lands covered under R.A. No. 6657 including those subject of illegal transfers/sales.
2. The DAR shall, as a matter of policy, cover all lands in excess of the five (5) hectare retention limit or land ownership ceiling.
3. Where the transfer/sale involves a total aggregate landholding of five (5) hectares and below of a particular landowner and the transferee will not own an aggregate of more than five (5) hectares, the transfer is legal and proper. However, a DAR clearance is needed for the purpose of monitoring and as requisite for registration pursuant to the provisions of DAR Administrative Order No. 1, Series of 1989 (Rules and Procedures Governing Land Transactions).
4. Where the transfer/sale involves more than the five (5) hectare retention area, the transfer is considered violative of Sec. 6 of R.A. No. 6657.

In case of multiple or series of transfers/sales, the first five (5) hectares sold/conveyed without DAR clearance and the corresponding titles issued by the Register of Deeds (ROD) in the name of the transferee shall, under the principle of estoppel, be considered valid and shall be treated as the transferor/s' retained area but in no case shall the transferee exceed the five-hectare landholding ceiling pursuant to Sections 6, 70 and 73(a) of R.A. No. 6657. Insofar as the excess area is concerned, the same shall likewise be covered considering that the transferor has no right of disposition since CARP coverage has been vested as of 15 June 1988. Any landholding still registered in the name of the landowner after earlier dispositions totaling an aggregate of five (5) hectares can no longer be part of his retention area and therefore shall be covered under CARP.

5. In addition to compliance with the reglementary periods provided under existing rules, where applicable, no application for exemption, conversion, exclusion, and petition to lift CARP coverage, or any other protest or opposition against CARP coverage shall be accepted if the property is a subject of conveyance executed in violation of Section 6 par. 4 of R.A. No. 6657.

III. COVERAGE

These guidelines shall apply to all private agricultural lands subject of land acquisition and distribution under R.A. No. 6657, which fall under the following prohibited transactions:

1. Conveyed before 15 June 1988 but registered after 13 September 1988; and
2. Conveyed on or after 15 June 1988.

IV. OPERATING PROCEDURES

1. All landholdings subject of acquisition shall be validated based on ownership documents and on the projection by the DAR on DENR land classification maps to determine whether or not the areas are alienable and disposable. All the basic ownership documents required pursuant to DAR AO 2, S. 2005 shall be secured and certified by concerned offices.
2. If upon validation it was found that there was illegal conveyance pursuant to Section 6, paragraph 4, Sections 70 and 73 (a) of RA 6657, the following shall be undertaken:
 - 2.1 The Municipal Agrarian Reform Officer (MARO) shall:
 - 2.1.1 identify the name/s of the original landowner-transferor and conduct research to determine and identify the transferee/s;
 - 2.1.2 secure from the Register of Deeds certified true copies of the titles issued under the name of the transferee/s;
 - 2.1.3 prepare a report on the incidence of illegal transfer and submit the same, together with all relevant documents to the Provincial Agrarian Reform Officer (PARO).
 - 2.2 The PARO shall:
 - 2.2.1 upon receipt of the MARO's report and all relevant/required documents, issue a Notice of Coverage (NOC) to both the original owner and the present titleholder/s or the transferee following the guidelines set forth pursuant to DAR AO 4, S. of 2005. The documentation of the Claim folder/s (CF/s), the issuance of the Memorandum of Valuation and the payment of compensation proceeds shall be under the name of the original owner versus the present title-holder/s or the transferee/s.
 - 2.3 The LBP shall:
 - 2.3.1 Upon Order by the PARO, issue a Certificate of Deposit in the name of the old/original owner versus the new owner/transferee.

However, the release of payment thereof shall be subject to issuance of Special Power of Attorney by the original owner in favor of the new owner or execution by the former or his heirs of a Deed of Assignment in favor of the new owner/transferee and vice-versa.

V. TRANSITORY PROVISIONS

All CFs which are being documented by the DAR for purposes of CARP coverage and those without Memorandum of Valuation (MOV) shall be re-documented in accordance with this AO and AO Nos. 2 and 4, S. of 2005.

VI. REPEALING CLAUSE

This Administrative Order (AO) repeals DAR Memorandum Circular Nos. 2, Series of 2001 and 18, Series of 2004 and modifies or amends DAR AO 2, Series of 2003 and all other orders, circulars, issuances or portions thereof which are inconsistent herewith.

VII. EFFECTIVITY

This Order shall take effect ten (10) days after its publication in two (2) newspapers of general circulation.

Diliman, Quezon City, 26th of May 2006.



NASSER C. PANGANDAMAN
OIC-Secretary

Published in two (2) National
Newspaper of General Circulation:

- 1.) The Manila Times
- 2.) The Philippine Star

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CERTIFICATION

This is to certify that Administrative Order No. 5, Series of 2006 entitled "**Guidelines on the Acquisition and Distribution of Agricultural Lands Subject of Conveyance Under Sections 6, 70 and 73(a) of R.A. No. 6657**" was published today, 31 May 2006 at Philippine Star and Manila Times newspapers.

Issued this 31st day of May 2006 for whatever purpose it may serve.


HUGO B. YONZON III
Director, PAS