



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

MEMORANDUM CIRCULAR NO. 04
 Series of 2009

TO : All DAR Regional Directors, Provincial Agrarian Reform Officers, Municipal Agrarian Reform Officers and all other DAR Officials and Employees Concerned

SUBJECT : Clarifying the Reckoning date of the 5-year Prohibitory Period of Encumbering/Alienating Lands Acquired Through Free Patent and Homestead Patent

1. In response to the DAR's request to clarify the reckoning date of the 5-year prohibitory period of encumbering or alienating lands acquired through free patent or homestead patent, the DENR replied as follows:

“The Public Land Act (C.A. 141, as amended) provides:

“Section 118. Except in favor of the Government or any of its branches, units or institution, or legally constituted banking corporations, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period; but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations or corporations.”

“By the above provision, it is the view of this office that the 5-year prohibitory period is reckoned from and after the date of the issuance of the patent or grant thereof not from the registration of the patent with the Register of Deeds concerned as many perceive it to be.”

2. Attention, however, is invited to the opening phrase of the aforementioned Section 118, C.A. 141, as amended, which clearly exempts from the 5-year prohibitory period the transfer to the Government of free patent or homestead patents.
3. Accordingly, the 5-year prohibitory period shall not apply to the Compulsory Acquisition (CA) mode nor to the Voluntary Offer to Sell (VOS) mode of land acquisition and distribution (LAD) of CARP inasmuch as these two modes of LAD involve the transfer of title first to the Republic of the Philippines (RP) before the landholding is transferred or distributed to the agrarian reform beneficiary (ARB).
4. Pursuant to the aforementioned provision of law, the 5-year prohibitory period shall apply to the Voluntary Land Transfer (VLT) mode of the LAD since this particular LAD mode of the CARP involves the transfer of ownership directly from their landowner to the ARB.
5. This Circular shall take effect immediately.

Diliman, Quezon City, 2 March 2009.

NASSER C. PANGANDAMAN
 Secretary

