



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

DAR Memorandum Circular

No. 09

Series of 2004

TO : The Undersecretary for Field Operations
The Undersecretary of Policy Planning and Legal Affairs
Regional Directors
Provincial Agrarian Reform Officers
Municipal Agrarian Reform Officers
All concerned

SUBJECT: SUPPLEMENTAL GUIDELINES TO MEMORANDUM CIRCULAR NO. 06, SERIES OF 2004, PROVIDING LEGAL ASSISTANCE TO DAR OFFICIALS AND EMPLOYEES UNJUSTLY CHARGED IN COURT OR OTHER GOVERNMENT BODIES IN THE PERFORMANCE OF THEIR DUTIES, AND CREATING THE LEGAL SUPPORT FUND FOR THE PURPOSE.

In response to well-founded and verified information that the availment of injunctions and temporary restraining orders (TROs) before the regular courts has been unduly utilized as a strategy to obstruct, impede, delay or otherwise render ineffective the implementation of the Comprehensive Agrarian Reform Program to the detriment of the concerned farmer-beneficiaries, Memorandum Circular No. 6, Series of 2004 was issued:

- (1) Affirming the policy against the issuance by regular courts of TROs and injunctions directed against the PARC or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform, as enunciated under Section 55 of R.A. 6657;
- (2) Providing that all concerned DAR officials and employees should continue with the acquisition and distribution process despite the threat of, or actual issuance of temporary restraining orders or injunctions issued by the regular courts in order to obstruct, impede, delay or otherwise render ineffective the said process.

To further clarify the effect of injunctions and temporary restraining orders issued by regular courts on the acquisition and distribution of lands under the CARP as well as to facilitate the conduct of said CARP processes in affected landholdings, the following supplemental guidelines are adopted for the guidance of all concerned DAR officials and employees:

1. The issuance of TROs and/ or injunctions by any court enjoining conduct of acquisition and distribution activities over agricultural landholdings pursuant to and in implementation of the provisions of R.A. 6657 is, as stated in MC No. 6, S. 2004, contrary to the policy enunciated in Sec. 55 of R.A. No. 6657, which states that:

"Sec. 55. No Restraining Order or Preliminary Injunction. -- No court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the PARC or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform."

2. If a TRO or injunction is issued by a "lower court", there is, likewise a direct contravention of Sec. 68 of R.A. 6657, which provides, as follows:

"Sec. 68. Immunity of Government Agencies from Undue Interference. — No injunction, restraining order, prohibition or mandamus shall be issued by the lower courts against the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) in their implementation of the program.

3. In this regard, "lower courts," shall be understood in the sense the same is defined under the Administrative Code, as follows:

CHAPTER 4 – JUDICIAL POWER

"Sec. 16. Judicial Power. – The judicial power shall be vested in one (1) Supreme Court, and in such lower courts as may be established by law. Such lower courts include the Court of Appeals, Sandiganbayan, Court of Tax Appeals, Regional Trial Courts, Shari's District Courts, Metropolitan Trial Courts and Municipal Trial Courts and Municipal Circuit Trial Courts and they shall continue to exercise their respective jurisdictions until otherwise provided 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, in cases prescribed by law, 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." [Book II, Chapter 4, 86.16, Executive Order No. 292]

4. It is undoubtedly in consideration of the imperative nature of the agrarian reform program that the lawmakers that drafted RA 6657 incorporated Section 55 and

Section 68 – provisions that are clearly meant to shield the CARP from being stalled or delayed by TROs and injunctions. This intent is glaringly evident in the fact that even TROs – a judicial writ that has a very short effectivity period -- are proscribed.

5. Specifically in regard to Sec. 68 of RA 6657, the provision prohibits the issuance of injunctions, restraining orders, and other writs not only against the Department of Agrarian Reform (DAR), but against other agencies --the Department of Agriculture (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) -- in their implementation of the program. This clearly underscores the lofty regard that the law gives to agrarian reform. The DAR, most of all, being the lead implementing agency of the CARP, must do the same.

6. It is emphasized that the law, specifically Section 50, R.A. 6657, vests in the DAR PRIMARY JURISDICTION over agrarian reform matters and that DAR assumes EXCLUSIVE ORIGINAL JURISDICTION over all matters involving the implementation of agrarian reform.

7. Further, Sec. 50 of RA 6657 treating of the quasi-judicial powers of the DAR, provides, among others, that in the determination and adjudication of agrarian reform matters, the decision of the DAR shall be immediately executory notwithstanding an appeal to the Court of Appeals. This clearly highlights the intention of Congress to give the DAR relative autonomy in the implementation of agrarian reform and adjudication of agrarian reform matters.

8. Moreover, and under the Doctrine of Primary Jurisdiction, the High Court stressed that the court cannot arrogate unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence.

9. Armed with these bases, there is no reason for the concerned DAR officials and employees to doubt the propriety of pursuing land acquisition and distribution as provided for under paragraph 3 of MC 6, S. 2004.

10. Consistent with the intent of Sec. 55, 68, and 50 of RA 6657, and the provisions of existing administrative guidelines, notwithstanding, the coverage and/or the conduct of activities for the acquisition and distribution of agricultural lands subject of applications for exemption, exclusion, conversion, for the lifting of notices of coverage, protests against coverage, and like actions and applications, shall proceed upon the DAR's dismissal or denial of said actions or applications despite the elevation to the courts, where proper, of the DAR's order of dismissal or denial. Provided, that this shall not be interpreted as a relaxation of existing rules providing for prescriptive periods for the filing of said actions or applications. Provided further, that this shall not be interpreted as a withdrawal of provisions of existing administrative guidelines that allows, in certain instances, the coverage or the conduct of acquisition and distribution activities even while the DAR is yet in the process of considering the applications for

exemption, exclusion, conversion, for the lifting of notices of coverage, protests against coverage, and like actions.

11. All the foregoing notwithstanding, in order to truly and effectively implement the Comprehensive Agrarian Reform Program (CARP), there is a need to ensure and uplift the moral and physical well-being of DAR implementers. In connection with this, Section 18 of Executive Order No. 129-A provides:

"Section 18. Legal Affairs Office. There is hereby created a Legal Affairs Office within the Department Proper which shall be responsible for the review of contracts and other legal matters, the rendition of legal assistance to Department personnel and those who will be affected by the agrarian reform program."

12. To achieve the aforesaid objective of the CARL (R.A. 6657, as amended), DAR officials and employees must be extended the fullest support by the Department, including legal assistance in all cases unjustly filed against them in connection with the performance of their duties.

13. For this purpose, a Legal Support Fund (LSF) is hereby created for the following:

(a) DAR officials and employees unjustly charged in court and other government bodies may avail of the financial assistance the Department is granting under the LSF;

(b) Under the LSF, the employees concerned may be given legal assistance by providing them competent lawyers to represent them in court hearings and other proceedings free of charge.

The Undersecretary for PPLAO, in collaboration with the Bureau of Agrarian Legal Assistance (BALA), DARCO is hereby directed to immediately prepare the guidelines in the implementation of the LSF.

14. This Memorandum Circular amends or repeals all issuances inconsistent herewith.

Strict compliance is hereby enjoined.

Done in Diliman, Quezon City, 13 May 2004.


JOSE MARI B. PONCE
OIC-Secretary