



DEPARTMENT OF
ENVIRONMENT AND
NATURAL RESOURCES



DEPARTMENT of
AGRARIAN REFORM



**JOINT DAR-DENR
MEMORANDUM CIRCULAR NO. 14
SERIES OF 1997**

TO : ALL DAR REGIONAL DIRECTORS
ALL DENR REGIONAL EXECUTIVE DIRECTORS
ALL PAROs, PENROs, MAROs, CENROs and OTHER
OFFICIALS/EMPLOYEES CONCERNED

SUBJECT : CLARIFYING THE JURISDICTION OF THE DEPARTMENT OF
AGRARIAN REFORM (DAR) AND THE DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES (DENR) ON THE
DISPOSITION OF UNTITLED PRIVATELY CLAIMED
AGRICULTURAL LANDS

I. PREFATORY STATEMENT

Section 4 of R.A. 6657, defines the scope of the Comprehensive Agrarian Reform Program (CARP) to include all private and public agricultural lands. However, the Department of Agrarian Reform (DAR) was uncertain as to whether this would include untitled privately claimed lands.

The DAR made a formal query with the Department of Justice (DOJ) as to whether or not untitled privately claimed agricultural lands are covered under the CARP. The DOJ, in Opinion No. 176, Series of 1992, opined:

"x x x ... Thus, it has been held that there should be no distinction in the application of the law where none is indicated therein (SSS vs. City of Bacolod, 115 SCRA 412), and that general words and phrases in a statute should be accorded their natural and general significance (Lo Cham vs. Ocampo, 779 Phil. (636). By said rule, the term "private agricultural lands" in the aforequoted section should be interpreted as including all private lands, whether titled or untitled. x x x"

In view of the above legal opinion, there is a need to clarify the jurisdiction of the DAR and the DENR in so far as the disposition of these lands is concerned. The DENR processes for disposition landholding subject to administrative legalization (Free Patent) while the Courts process judicial confirmation of imperfect or incomplete claims/titles under the criteria defined in R.A. 6940. On the other hand, the DAR is likewise mandated under R.A. 6657 to distribute these landholding under the CARP.

Inasmuch as the landholding subject to administrative legalization (Free Patent) by the DENR and Judicial Confirmation of Imperfect Rights by the Courts constitute the same type being covered by the DAR as untitled privately claimed agricultural lands, pursuant to criteria defined in R.A. 6940, there is a need to delineate the responsibilities of the DAR and the DENR with respect to this land type. Accordingly, this Joint Memorandum Circular is hereby promulgated for the information and compliance by all concerned.

II. STATEMENT OF POLICIES.

- A. This Joint Circular shall apply to all untitled privately claimed public alienable and disposable lands classified as such before April 16, 1960, except those excluded under E.O. 407, as amended and Section 15 of P.D. NO. 705, as amended.
- B. The criteria specified in R.A. 6940 for the determination of whether or not a person has already acquired a recognizable private right over a landholding shall be adopted, namely:
- a. Continuous occupancy and cultivation by oneself or through one's predecessors-in-interest for at least thirty (30) years prior to the effectivity of R.A. 6940 on April 16, 1990;
 - b. The land must have been classified as alienable and disposable for at least thirty (30) years prior to the effectivity of R.A. 6940 on April 16, 1990;
 - c. One must have paid the real estate tax thereon; and
 - d. There are no adverse claims on the land.
- C. All agricultural A & D lands classified as such after April 16, 1960 shall be under the exclusive jurisdiction of the DENR, except those defined to be under DAR jurisdiction as per Joint DAR-DENR Memorandum Circular No. 09, Series of 1995, or when turned over by the DENR to the DAR in the indigenous cultural community areas pursuant to the Supplemental Agreement of December 23, 1994 between the DAR and the DENR Secretaries or any other areas turned over by DENR to DAR.
- D. All agricultural lands decided by the Courts as public lands in compulsory registration proceedings or in voluntary land registration cases, even if classified as alienable and disposable before April 16, 1960, shall be under the exclusive jurisdiction of the DENR.

III. COVERAGE AND JURISDICTION

- A. As a general rule, untitled public A & D lands are within the jurisdiction of DENR pursuant to C.A. 141 (Public Land Act). However, the subject land is deemed "private" if all the requisites enumerated in II-B of the Statement of Policies of this Circular have been complied with. The required number of years is satisfied when consolidation of actual possession of the public land claimant and his successor-in-interest will be equivalent to 30 years, or more.

A Free Patent for the retained area of not more than five (5) hectares shall be first issued by DENR and then DAR shall immediately cover the excess area and issue a Certificate of Land Ownership Award (CLOA) or Emancipation Patent, as the case maybe, except in cases of hereditary succession wherein each heir is entitled to the five (5) hectare retention.

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- B. For untitled public A & D lands which are tenanted but lacks the required 30 year possession, the *disposition of* the property shall be under the jurisdiction of the DENR, but leasehold arrangement between the public land claimant and the tenants covered by the pertinent agricultural laws, rules or regulations, shall be respected and documented by DAR. It is the responsibility of DAR to protect and improve the tenorial and economic status of tenant-tillers in agricultural lands within the retained areas and areas not yet acquired pursuant to R.A. 6657. Hence, the DAR shall determine and immediately fix the lease rental thereof in accordance with Section 3 of R.A. 3844, as amended. DAR shall likewise periodically review and adjust the rentals for all crops for all regions to improve the condition of the farmer-lessees.
- C. If the public A & D land is not tenanted but has actual farm occupants, and the public land claimant lacks the requisite 30 year possession, these landholding shall be under the jurisdiction of the DENR. However, the proper tenorial instrument for the public land claimant and/or the farmer occupant, homestead or whatever other form of tenorial instruments, shall be applied.

IV. PROCEDURES


- A. DENR and DAR shall jointly update the nationwide inventory of all untitled agricultural A & D lands per landholding by Region by Province by Municipality by Barangay within six months after the approval of this Joint Memorandum Circular.
- B. In the conduct of the updating of inventory by the DENR and DAR, the identification of what respectively belongs to DENR and DAR shall be firmed up and accordingly adjusted for untitled A & D lands, before the DENR makes a turnover to DAR. Henceforth, the required certifications per provisions of DAR-DENR-LBP Joint Circular No. 12 maybe obtained only after the official turn over by the DENR to the DAR.
- C. The concerned Undersecretaries of DAR and DENR shall issue, whether individually or jointly, more detailed guidelines to the field offices of each respective departments in order to carry out the goals and objectives of this Memorandum Circular.

V. EFFECTIVITY

This circular shall take effect immediately.

Quezon City, MARCH 31, 1997.


ERNESTO D. GARILAO
Secretary, DAR


VICTOR O. RAMOS
Secretary, DENR
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