



Memorandum Circular No. 05
Series of 1996

TO: ALL DAR REGIONAL DIRECTORS
PROVINCIAL AGRARIAN REFORM OFFICERS
MUNICIPAL AGRARIAN REFORM OFFICERS
OTHERS CONCERNED

SUBJECT: GUIDELINES CLARIFYING SECTIONS 3 AND 6 OF R. A. 7881
RELATIVE TO APPLICATIONS FOR COMMERCIAL FARMS DEFERMENT
AND THE TURN-OVER TO DAR OF FORECLOSED ASSETS OF
GOVERNMENT FINANCIAL INSTITUTIONS, RESPECTIVELY

To guide all concerned on the interpretation of Sections 3 and 6 of RA 7881 as they relate to applications for commercial farms deferment and the mandate of GFIs to turn over their foreclosed assets to DAR for CARP coverage, respectively, the following clarification is hereby issued:

1. Section 3 of RA 7881 does not extend the previously set deadline of 2 May 1989 for the filing of applications for commercial farms deferment.

Although the approved version of the Senate on the exemption of fishponds and prawn farms from CARP (Section 3 of S.B. 740) reads: "Commercial farms, EXISTING AND HERETOFORE TO BE ESTABLISHED, x x x" and the clear intent of said Senate version was to cover future farms, the final version reported out by the Conference Committee provides:

"Commercial farms which are private agricultural lands devoted to (commercial livestock, poultry and swine raising, and aquaculture including), saltbeds, (fishponds and prawnponds), fruit farms, orchards, vegetable and cut flower farms, and cacao, coffee and rubber plantations, shall be subject to immediate compulsory acquisition and distribution after ten years from the effectivity of this Act."

The phrase "existing and heretofore to be established" has been dropped, and the only change in Section 11 of R.A. 6657, reflected in Section 3 of R. A. 7881, has been to delete the references to poultry, livestock, swine raising, fishponds, and prawn farms. Therefore, the clear legislative intent was to make these categories of agricultural lands exempt from CARP, in accordance with the Supreme Court ruling (Luz Farms) and the general intent of R. A. 7881.

2. Section 6 of RA 7881 provides the following:

"SEC. 6. There shall be incorporated after Section 73 of Republic Act No. 6657 a new section to read as follows:

"SECTION 73-A. Exception. - The provisions of Section 73, paragraph (E), to the contrary notwithstanding, the sale and/or transfer of agricultural land in cases where such sale, transfer or conveyance is made necessary as a result of a bank's foreclosure of the mortgaged land is hereby permitted."


The net effect of the aforementioned provision is to allow government financial institutions to dispose to third parties

their properties which were foreclosed on or after the effectivity of RA 7881, i.e. March 12, 1995, under the General Banking Act. However, since said properties fall under CARP coverage, the same shall still be acquired by the government through the DAR for distribution to qualified farmer beneficiaries as mandated under RA 6657.

As regards private banks, Section 71 of RA 6657 provides that said foreclosed assets are subject to existing laws on their compulsory transfer (that is, under the General Banking Act) and acquisition under Section 16 of said Act. This means that private banks may sell to third parties their foreclosed assets but still subject to acquisition under Section 16 of RA 6657.

Please be guided accordingly.

Diliman, Quezon City. APRIL 18 1996.


ERNESTO D. GARILAO
Secretary