

DEPARTMENT of AGRARIAN REFORM

ADMINISTRATIVE ORDER NO. 01
Series of 1989

SUBJECT: RULES AND PROCEDURES GOVERNING LAND TRANSACTIONS

I. LEGAL MANDATE

A. Registration of Deeds. - Upon the effectivity of Republic Act No. 6657, 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 three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

B. Disposition of Private Agricultural Lands. - The sale or disposition of agricultural lands retained by a landowner as a consequence of Section 6 (RA. 6657) 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 landholding ceilings provided in RA. 6657.

Transferees of agricultural lands shall furnish the appropriate Register of Deeds and the BARC an affidavit attesting that their respective total landholdings as a result of the said acquisition do not exceed the landholding ceiling. The Register of Deeds shall not register the transfer of any agricultural land without the submission of such sworn statement together with proof of service of a copy thereof to the BARC.

C. Transfer and Conversion of Lands Outside Urban Centers Prohibited. - The sale, transfer, conveyance or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of RA. 6657 is prohibited except as provided for under DAR Administrative Order No. 15, Series of 1988.

The date of the registration of the deed of conveyance in the Register of Deeds with respect to titled lands and the date of the issuance of the Tax Declaration to the transferee of the property with respect to unregistered lands, as the case may be, shall be conclusive for the purpose of the aforesaid act.

Likewise prohibited are sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he acquired by virtue of being a beneficiary, in order to circumvent the provisions of RA. 6657.

D. Transferability of Awarded Lands. - Lands acquired by beneficiaries under RA. 6657 may not be sold, transferred or conveyed except through hereditary succession, or to the DAR or to the LBP, or to other qualified beneficiaries within a period of ten (10) years; Provided, however, that the children or the spouse of the transferor shall have a right to repurchase the land from the DAR or LBP within a period of two (2) years. Due notice of the availability of the land shall be given by the LBP to the BARC of the Barangay where the land is located. The Provincial Agrarian Reform Coordinating Committee (PARCCOM), as provided by law, shall, in turn, be given due notice thereof by the BARC.

If the land has not yet been fully paid by the beneficiary, the rights to the land may be transferred or conveyed, with prior approval of the DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition for such transfer or conveyance, shall cultivate the land himself. Failing compliance herewith, the land shall be transferred to the LBP which shall give due notice of the availability of the land in the manner specified in the immediately preceding paragraph.

In the event of such transfer to the LBP, the latter shall compensate the beneficiary in one lump sum for the amounts the latter has already paid, together with the value of improvements he has made on the land.

E. Bank Mortgages. - Banks and other financial institutions allowed by law to hold mortgage rights or security interests in agricultural

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lands to secure loans and other obligations of borrowers may acquire title to these mortgaged properties, regardless of areas, subject to existing laws on compulsory transfer of foreclosed assets and acquisitions as prescribed under Section 16 of RA. 6657.

II. RULES ON VALIDITY OF LAND TRANSACTIONS

1. The following transactions are valid:

- a) Those executed by the original landowner in favor of a qualified beneficiary from among those certified by DAR.
- b) Those in favor of the government, DAR or the Land Bank of the Philippines.
- c) Those covering lands retained by the landowner under Section 6 of RA. 6657 certified by the duly DAR Provincial Agrarian Reform Officer as a retention area, executed in favor of transferees whose total landholdings inclusive of the land to be acquired do not exceed five (5) hectares; subject, however, to the right of pre-emption and/or redemption of tenant/lessee under Sections 11 and 12 of RA. 3844 as amended.

Retention area will refer to the parcel of land, or portion thereof, selected by the landowner as his retained area to remain under his full ownership and control after his landholding has been acquired by the government or covered by CARP and distributed to the beneficiaries as evidenced by a Certificate of Retention issued by the PARO.

- d) Those executed by beneficiaries covering lands acquired under any agrarian reform law in favor of the government, DAR, LBP or other qualified beneficiaries certified by DAR.
- e) Those executed after ten (10) years from the issuance and registration of the Emancipation Patent or Certificate of Land Ownership Award.

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- f) If the land has not yet been fully paid by the beneficiary, the right to the land may be transferred or conveyed, with prior approval of DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition for such transfer or conveyance, shall cultivate the land himself. If the beneficiary fails to comply with this condition, the land shall be transferred to the LBP which shall give due notice of the availability of the land to the BARC where the land is situated. Upon receipt of the notice, the BARC shall in turn notify the Provincial Agrarian Reform Coordinating Committee of such notice of availability of land.

In the event of such transfer to the LBP, the latter shall compensate the beneficiary in one lump sum for the amounts the latter has already paid, together with the value of improvements he has made on land.

2. The following transactions are not valid:

- a) Sales, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner prior to June 15, 1988, which are not registered on or before September 13, 1988, or executed after June 15, 1988, covering area in excess of the 5-hectare retention limit in violation of RA, 6657.
- b) Those covering lands acquired by the beneficiary under RA, 6657 within ten (10) years from the issuance and registration of an Emancipation Patent or Certificate of Land Ownership Award.
- c) Those executed in favor of a person or persons not qualified to acquire land under RA, 6657.
- d) Sale, transfer, conveyance or change of nature of lands outside of urban centers and city limits either in whole or in part after June 15, 1988, when RA, 6657 took effect, except as provided for under DAR Administrative Order No. 15, Series of 1988.
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- e) Sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land ~~he~~ acquired by virtue of being a beneficiary, in order to circumvent the law.
3. The following are not prohibited transactions and may be registered by the Register of Deeds without prior clearance from DAR:
- a) Deed of extra-judicial partition of the property of a deceased who died prior to June 15, 1988.
 - b) Deed of partition of property owned in common by co-owners prior to June 15, 1988.
 - c) Sub-division of title without change of ownership.
 - d) Deed of real estate mortgage executed by the original landowner or beneficiary.

III. OPERATING PROCEDURES

In the issuance of clearance required under these rules, the following procedures shall be followed:

1. A written request shall be filed by the applicant with the Municipal Agrarian Reform Office (MARO) having a territorial jurisdiction over the subject land, attaching thereto the following documents:
- a) Deed or instrument to be registered.
 - b) OCT/TCT or Tax Declaration if the land is not covered by a Certificate of Title.
 - c) Affidavit of transferee that he/she and spouses have a total landholding inclusive of the land to be acquired of not more than five (5) hectares if he/she is a non-beneficiary and three (3) hectares if beneficiary. Copy of the affidavit shall be furnished the BARC with proof of service indicated or attached to the copy for the Register of Deeds.

- d) Affidavit of transferor stating that the land subject of deed is a retention or portion of the retention area.
2. MARO shall determine the accuracy/truth of the instrument/deed and affidavits as well as to:
 - a) Conduct field verification whether or not the subject land is tenanted by person other than the transferee.
 - b) Ascertain the subject land if the same is a retention or part of the retention area of the vendor/transferor.
 - c) Determine whether or not the total landholding of transferee and his spouse will, as a result of the deed, exceed landownership ceiling.
3. MARO shall forward the request, together with all the attached documents to the PARO with comments and recommendation. A copy of the request and other attachments thereof shall be retained for MARO file.
4. The PARO shall examine the request and all the attached documents. If in order, to issue a clearance for the registration of the subject deed.
5. The Register of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural land in excess of five (5) hectares.

IV. TENANT'S/LESSEE'S RIGHTS OF PREEMPTION OR REDEMPTION

1. In case the landowner/lessor decides to sell his tenanted/leased land, he must first offer to sell it to the tenant or lessee thereof who has the preferential right to buy the same under reasonable terms and condition as provided for under Section 11, RA, 3844, as amended.
2. If the land was sold to third person without the knowledge of the tenant/lessee thereof, the latter shall have the right to redeem

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the same at reasonable price and consideration in the manner prescribed under Section 12, RA. 3844, as amended.

3. Sale or transfer to the government, LBP or DAR of lands acquired by the beneficiary under RA, 6657 shall be subject to the right of the children or spouse of the beneficiary to repurchase the land from the government, DAR or LBP within a period of two (2) years.

V. LANDS SUBJECT TO MORTGAGE OR ENCUMBRANCE

The following lands may be subject-matter of mortgage or lien or encumbrance to guarantee any loan obligation secured to develop or improve the same, viz:

1. Lands not yet acquired by DAR under RA. 6657.
2. Those lands chosen by the landowners as their retention areas.
3. Land already awarded/allocated to beneficiaries.

Those banks authorized to hold mortgage encumbrance in agricultural lands may acquire titles on these mortgaged properties subject to existing laws on compulsory transfer of fore-closed assets and acquisition provided for under Sections 16 and 71 of RA. 6657.

All Orders, Circulars, Memoranda or portions thereof inconsistent herewith are hereby revoked, cancelled or modified as the case may be.

This Order shall take effect ten (10) days after the publication in two (2) national newspapers of general circulations pursuant to Section 49 of RA. 6657.

Diliman, Quezon City, January 3, 1989.


PHILIP ELLA JUICO
Secretary

Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM
PROVINCIAL AGRARIAN REFORM OFFICE

C E R T I F I C A T I O N

TO WHOM IT MAY CONCERN:

This is to certify that the agricultural land/s identified as:

Lot No/s. _____

Registered (in the name of _____

(Under TCT/OCT No. _____

With Area (in Ha. of _____

(in the name of _____

Declared (_____

(Under TD No. _____

Located at _____

and subject of the Deed of _____ executed by

_____ in favor of _____

under Doc. No. _____, Page No. _____, Book No. _____,

Series of _____ dated _____ of Notary Public

_____ is a retention area or part of

the retention area of Vendor _____.

This clearance is issued for purposes of registration of the afore-mentioned Deed of _____ with the Register of Deeds.

Date

PARO

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REPUBLIC OF THE PHILIPPINES)
PROVINCE OF _____) S.S

AFFIDAVIT OF BUYER/TRANSFEEE

I, _____, Filipino,
of legal age, single/married, with residence and post-
office address at _____
after having been sworn according to law, hereby depose
and say:

A. That the total aggregate landholding owned by me
and my wife including the area of _____ hectares,
more or less, that I am acquiring from _____
under Doc. No. _____, Page No. _____, Book No. _____,
Series of _____, dated _____ of Notary
Public _____ does not exceed five
(5) hectares;

B. That this affidavit is executed in compliance with
DAR Administrative Order No. _____, S-19 _____ as well as to
show proof that my total aggregate landholding inclusive of
the land subject of the above-mentioned transaction does
not exceed five (5) hectares.

AFFIANT SAYETH NONE.

Date

AFFIANT

REPUBLIC OF THE PHILIPPINES)
S.S

SUBSCRIBED AND SWORN to before me this _____ day of
_____ at _____, with affiant
exhibiting to me his/her residence certificate No. _____
issued on _____ at _____

NOTARY PUBLIC
Until _____

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

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C No. #5

AFFIDAVIT OF SELLER/TRANSFEROR

I, _____, of legal age,
married/single, with residence and post-office address
at _____ after having
been sworn according to law, hereby depose and say:

A. That the land I sold to _____
with an area of _____ hectares, more or less,
under Doc. No. _____, Page No. _____, Book No. _____,
Series of _____, dated _____ of Notary Public
_____ is my retention area or a
portion of my retention area of not more than five (5)
hectares;

B. That this affidavit is executed in compliance
with DAR Administrative Order No. _____, S-19 _____ as well
as to show proof that the land subject of the above-
mentioned transaction is a retention area.

AFFIANT SAYETH NONE.

_____ Date

_____ AFFIANT

SUBSCRIBED AND SWORN to before me this _____ day
of _____, 19____ at _____
with affiant exhibiting to me his/her residence certificate
No. _____, issued at _____
on _____.

NOTARY PUBLIC
Until _____

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

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