



## DEPARTMENT of AGRARIAN REFORM

DEPARTMENT MEMORANDUM

CIRCULAR NO. 04

Series of 1991

TO : DAR REGIONAL DIRECTORS,  
PROVINCIAL AGRARIAN REFORM OFFICERS,  
MUNICIPAL AGRARIAN REFORM OFFICERS  
AND ALL CONCERNED.

SUBJECT : GUIDELINES GOVERNING AGRICULTURAL LANDS  
COVERED BY HOMESTEAD PATENTS PURSUANT TO THE  
PUBLIC LAND ACT (Commonwealth Act No. 141)

Section 6, Republic Act No. 6657 provides that original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead. Pursuant to the said section, the following guidelines governing agricultural lands covered by Homestead Patents are hereby prescribed:

A. A homestead shall not be subject of compulsory acquisition under the Comprehensive Agrarian Reform Program (CARP) if the following conditions are present:

1. The original homestead grantee or his direct compulsory heir(s) still owns the original homestead at the time of the effectivity of RA 6657 on 15 June 1988; and
2. The original homestead grantee or his direct compulsory heir(s) was cultivating the homestead as of 15 June 1988 and continues to cultivate the same.

The phrase "direct compulsory heir" is understood to mean the surviving spouse of the original homestead grantee or his children and descendants or illegitimate children who must prove their filiation in accordance with the provisions of the Family Code. In the absence of all the foregoing, the surviving parents of said original homestead grantee shall be considered.

B. Section 6, RA 6657 provides that in all cases, the security of tenure of farmers or farmworkers on the land prior to the effectivity of this Act shall be respected. This is reiterated in the decision of the Supreme Court on case "Association of Small Landowners in the Philippines, Inc., et. al. versus The Honorable Secretary of Agrarian Reform" (GR No. 78742) dated 23 August 1990 which is hereunder quoted as follows :

"This is again an affirmation of the adherence of the government to the policy of protection to tenant

farmers. Elsewhere in the law are several provisions making explicit the prohibition of the ejection of the tenant farmers even on the lands that are retained by the landowners.

Section 6, pars. 2 & 3 provide:

Section 6. Retention Limits. -

x x x

The right to choose the area to be retained which shall be compact or contiguous, shall pertain to the landowner: Provided, however, that in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered as leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

In all cases, the security of tenure of the farmers or farmworkers on the land prior to the approval of this Act shall be respected.

In Sec. 22, par. 2, we find:

Section 22. Qualified Beneficiaries. -

x x x

Provided, however, that the children of the landowners who are qualified under Sec. 6 of this Act shall be given preference in the distribution of the land of their parents; and Provided, further, that actual tenant-tillers in the landholding shall not be ejected or removed therefrom. (Emphasis supplied.)

It is clear from these provisions that the landowners' right to eject their tenant has been impliedly repealed. In Sec. 76 of the

said Act, P.D. 316, the law which by implication recognized the landowners' right to eject their tenant farmers, together with other decrees and executive orders which are inconsistent with the Act, have been repealed or amended."

- C. Tenants of lands covered by homestead patents exempted from PD 27 or retained under RA 6637 shall not be ejected therefrom but shall remain as leaseholders therein. The tenant/lessee shall have the option to choose within one (1) year from the time the landowner makes his choice of the area for retention, whether to remain therein as leaseholder or be a beneficiary in the same or another land with similar or comparable features.
- D. Landowners of homesteads covered by PD 27 shall be entitled to payment of just compensation in accordance with law.

This Memorandum Circular takes effect immediately and supersedes and/or modifies all Orders, Circulars and Memoranda inconsistent herewith.

Diliman, Quezon City, May 10, 1991.

*Phuong*  
BENJAMIN T. LEONG  
Secretary *7 jrs*