AGRARIAN LAW - UNGOS BOOK NOTES

INTRODUCTION

ETYMOLOGY
• Latin word Agra means “a field”
• Agrarian - relating to land or to the ownership or division of land

AGRARIAN LAWS - laws that govern and regulate:
• Distribution of public agricultural lands, large estates,
• Relationship and rights over agricultural lands between
  o landowners
  o farmers who work on land or agricultural workers
  o tenants
  o lessees

AGRARIAN REFORM
• Current focus of agrarian laws
• Aims for redistribution or break up of agricultural lands to transform them into economic size farms to be owned by farmers themselves
• End view is to uplift the socio economic status of farmers
• Founded on right of landless farmers and regular farm workers to directly or collectively own the lands they till or to receive a just share in the fruits thereof

LAWS ON AGRARIAN REFORM
• Comprehensive Agrarian reform Law - basic law
• Tenant Emancipation Law
• Code of Agrarian Reforms

SOCIAL LEGISLATION
• Broad enough to cover labor, agrarian and welfare laws
• Emphasis is on the aspect of general public good and social welfare
• Laws or statutes enacted pursuant to the social justice clause of the Constitution

CHAPTER I Preliminary Chapter

Section 1. Title. –Comprehensive Agrarian Reform Law of 1988.

AGRARIAN LAW - all laws that govern and regulate rights and relationship between tenants, agricultural workers, lessees or landowners (talad), over agricultural lands

HISTORY OF PHILIPPINE AGRARIAN LAWS
• Spanish Era
  o Civil Code’s Special Provisions for Rural Leases - relationship between landowners and tenants
• American Regime
  o Rice Share Tenancy Act - relationship between landlords and tenants on rice lands
  o Sugar Tenancy Act - relationship between landlords and tenants on lands planted to sugar cane
• Commonwealth Period
  o CA 53 - testimony of tenant was regarded as prima facie evidence of terms of tenancy contract that was not reduced in writing in language known to him
  o CA 178 - Amended Rice Share Tenancy
AGRAARIAN LAW - UNGOS BOOK NOTES

- CA 271 - Amended Sugar Tenancy Act by extending application to sugar farm workers (initially only landlords and tenants)
- CA 461 - security of tenure to agricultural tenants
- CA 608 - Amended CA 461

- After grant of independence
  - RA 34 - amended Rice Share Tenancy Act
    - introduced changes in crop division
  - Agricultural Share Tenancy Act
    - repealed all earlier tenancy laws except Sugar Tenancy Act
  - RA 2263 - amended the amended Rice Share Tenancy Act
  - RA 1440 - expropriation of all tenanted estates
  - Agricultural Land Reform Code - Aug 13 1963
    - abolished share tenancy
    - instituted the agricultural leasehold system
  - RA 6389 - amended the Agricultural Reform Code into Code of Agrarian Reforms

- Marcos Regime
  - PD 27 Tenant Emancipation Law - provided for the transfer of lands primarily devoted to rice and corn to tenants
  - PD 946 - created Court of Agrarian Relations
  - PD 1038 - strengthened security of tenure of tenants in no rice or corn agricultural lands
  - PD 251, 44, 1039 and 1817 - amended Code of Agrarian Reforms

- Aquino Regime
  - EO 228 - Declaring full land ownership in favor of beneficiaries under PD 27
  - EO 229 - Providing for mechanics of implementation
  - Proclamation 131 - instituted comprehensive reform program
  - Comprehensive Agrarian Reform Law of 1988 - June 10 1988
  - RA 7881, 7905, 8532, 9700 - amended CARL

MEANING OF AGRARIAN REFORM

- Physical redistribution of lands and the totality of factors and support services designed to lift the economic status of beneficiaries and all other arrangements alternative to the physical redistribution of the lands, such as production or profit sharing, labor administration, and distribution of shares of stock.
- Allows them to receive a just share of the fruits of the lands they work
- Regardless of crop or fruits produced to farmers and regular farmers who are landless and irrespective of tenurial arrangement

REASON FOR ALTERNATIVES TO LAND DISTRIBUTION - Confining agrarian reform to land distribution is not feasible because there is not enough agricultural land to be distributed to every farmer or regular farm workers

CARL APPLIES ONLY TO AGRICULTURAL LAND - Lands

- Devoted to agricultural activities

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1 Emancipation of tenants from the bondage of the soil, transferring to them the ownership of the land they till and providing the instruments and mechanism therefor
2 Section 3
Zep Rivera
• Arable and suitable for farming

CARL DOES NOT APPLY TO: (CRIM-F)
1. Commercial Land
2. Residential Land
3. Industrial Land
4. Mineral Land
5. Forest Land

NATALIA REALTY DEV V. DAR (townsite reservation not agricultural land)
• Landowner: Natalia Realty Inc.
• PD 1637 - Proclaimed 20,312 hectares of land as town site reservation, part of which was the land of Natalia
  o Antipolo, Montalban, San Mateo
  o Reason: population overspill in the metropolis
• Private landowners were allowed to develop properties into low cost housing subdivisions with reservation
• Natalia was allowed by HLURB to develop land into a subdivision
• CARL then took effect 9 years later (June 15 1988)
• Natalia sought to cancel DAR's Notice of Coverage on undeveloped portions of the subdivision
  o Natalia claimed that the land was no longer covered by CARL because the PD converted the land to a town site reservation and was therefore no longer agricultural land
• HELD: Undeveloped portions of Natalia properties are NOT covered by the CARL because they are NOT agricultural land. Agricultural land does NOT include commercial, industrial or residential land.

CONSTITUTIONALITY OF CARP - valid exercise of police power

Section 2. Declaration of Principles and Policies.

It is the policy of the State to pursue a Comprehensive Agrarian Reform Program (CARP). The welfare of the landless farmers and farmworkers will receive the highest consideration to promote social justice and to move the nation toward sound rural development and industrialization, and the establishment of owner cultivatorship of economic-size farms as the basis of Philippine agriculture.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets: Provided, That the conversion of agricultural lands into industrial, commercial or residential lands shall take into account, tillers' rights and national food security. Further, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.

The State recognizes that there is not enough agricultural land to be divided and distributed to each farmer and regular farmworker so that each one can own his/her economic-size family farm.

This being the case, a meaningful agrarian reform program to uplift the lives and economic status of the farmer and his/her children can only be achieved through simultaneous industrialization aimed at developing a self-reliant and independent national economy effectively controlled by Filipinos.

To this end, the State may, in the interest of national welfare or defense, establish and operate vital industries.
A more equitable distribution and ownership of land, with due regard to the rights of landowners to just compensation, retention rights under Section 6 of Republic Act No. 6657\(^3\), as amended, and to the ecological needs of the nation, shall be undertaken to provide farmers and farmworkers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands.

The agrarian reform program is founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof.

To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to the priorities and retention limits set forth in this Act, taking into account ecological, developmental, and equity considerations, and subject to the payment of just compensation.

The State shall respect the right of small landowners, and shall provide incentive for voluntary land-sharing.

As much as practicable, the implementation of the program shall be community-based to assure, among others, that the farmers shall have greater control of farmgate prices, and easier access to credit.

The State shall recognize the right of farmers, farmworkers and landowners, as well as cooperatives and other independent farmers’ organizations, to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing and other support services.

The State shall recognize and enforce, consistent with existing laws, the rights of rural women to own and control land, taking into consideration the substantive equality between men and women as qualified beneficiaries, to receive a just share of the fruits thereof, and to be represented in advisory or appropriate decision-making bodies. These rights shall be independent of their male relatives and of their civil status.

The State shall apply the principles of agrarian reform, or stewardship, whenever applicable, in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain, under lease or concession, suitable to agriculture, subject to prior rights, homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.

The State may resettle landless farmers and farm workers in its own agricultural estates, which shall be distributed to them in the manner provided by law.

By means of appropriate incentives, the State shall encourage the formation and maintenance of economic-size family farms to be constituted by individual beneficiaries and small landowners.

The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production and marketing assistance and other services. The State shall also protect, develop and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the

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3 Comprehensive Agrarian Reform Program
utilization of marine and fishing resources.

The State shall be guided by the principles that land has a social function and land ownership has a social responsibility. Owners of agricultural land have the obligation to cultivate directly or through labor administration the lands they own and thereby make the land productive.

The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment and privatization of public sector enterprises. Financial instruments used as payment for lands shall contain features that shall enhance negotiability and acceptability in the marketplace.

The State may lease undeveloped lands of the public domain to qualified entities for the development of capital-intensive farms, and traditional and pioneering crops especially those for exports subject to the prior rights of the beneficiaries under this Act.

PRIMARY OBJECTIVE OF AGRARIAN REFORM

- Breakup agricultural lands to transform them into economic size farms to be owned by farmers themselves, to uplift their economic status.
- Founded on the right of landless farmers and landless regular farm workers to directly or collectively own the lands they till or in case of farm workers, to receive a just share in fruits thereof.
- Does not guarantee improvement in lives of the agrarian reform beneficiaries, but it merely provides for possibility of favorable chance of uplifting economic status of the agrarian reform beneficiaries

MEANING OF ECONOMIC FAMILY SIZE FARM - area of farm land that permits efficient use of labor and capital resources of the farm family and will produce a sufficient income to provide for (MIR)

- Modest standard of living to meet a farm family's needs for food, clothing, shelter and education with
- Possible allowance for payment of yearly installments on land and
- Reasonable reserves to absorb yearly fluctuations in income

Section 3. Definitions. – For the purpose of this Act, unless the context indicates otherwise:

<table>
<thead>
<tr>
<th>Agrarian Reform</th>
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<tbody>
<tr>
<td>• redistribution of lands, regardless of crops or fruits produced, to farmers and regular farmworkers who are landless, irrespective of tenurial arrangement,</td>
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<tr>
<td>• to include the totality of factors and support services designed to lift the economic status of the beneficiaries and</td>
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<td>• all other arrangements alternative to the physical redistribution of lands, such as</td>
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<td>• production or profit-sharing,</td>
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<td>• labor administration, and</td>
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<tr>
<td>• distribution of shares of stocks,</td>
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<tr>
<td>• which will allow beneficiaries to receive a just share of the fruits of the lands they work.</td>
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<table>
<thead>
<tr>
<th>Agriculture, Agricultural Enterprise or Agricultural Activity</th>
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<tbody>
<tr>
<td>• cultivation of the soil,</td>
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<tr>
<td>• planting of crops,</td>
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<tr>
<td>• growing of fruit trees,</td>
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<td>• including the harvesting of such farm products and</td>
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<td>• other farm activities and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical. (amended)</td>
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<thead>
<tr>
<th>Agricultural Land</th>
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<tr>
<td>• land devoted to agricultural activity as defined in this Act and</td>
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<tr>
<td>• not classified as mineral, forest, residential, commercial or industrial land.</td>
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</tbody>
</table>
| Agrarian Dispute | any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers’ associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements.  
| | includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.  

| Idle or Abandoned Land | any agricultural land not cultivated, tilled or developed to produce any crop nor devoted to any specific economic purpose continuously for a period of three (3) years immediately prior to the receipt of notice of acquisition by the government as provided under this Act,  
| | does not include land that has become permanently or regularly devoted to non-agricultural purposes.  
| | does not include land which has become unproductive by reason of force majeure or any other fortuitous event, provided that prior to such event, such land was previously used for agricultural or other economic purpose.  

| Farmer | a natural person whose primary livelihood is cultivation of land or the production of agricultural crops, livestock and/or fisheries either by himself/herself, or primarily with the assistance of his/her immediate farm household,  
| | whether the land is owned by him/her, or by another person under a leasehold or share tenancy agreement or arrangement with the owner thereof.  

| Farmworker | natural person who renders service for value as an employee or laborer in an agricultural enterprise or farm  
| | regardless of whether his compensation is paid on a daily, weekly, monthly or “pakyaw” basis  
| | includes an individual whose work has ceased as a consequence of, or in connection with, a pending agrarian dispute and who has not obtained a substantially equivalent and regular farm employment.  

| Regular Farmworker | natural person who is employed on a permanent basis by an agricultural enterprise or farm.  

| Seasonal Farmworker | natural person who is employed on a recurrent, periodic or intermittent basis by an agricultural enterprise or farm, whether as a permanent or a non-permanent laborer, such as “dumaan”, “sacada”, and the like.  

| Other Farmworker | farmworker who is not regular or seasonal farmworker  

| Cooperatives | organizations composed primarily of small agricultural producers, farmers, farmworkers, or other agrarian reform beneficiaries who voluntarily organize themselves for the purpose of pooling land, human, technological, financial or other economic resources, and operated on the principle of one member, one vote.  
| | juridical person may be a member of a cooperative, with the same rights and duties as a natural person.  

| Rural women | women who are engaged directly or indirectly in farming and/or fishing as their source of livelihood, whether paid or unpaid, regular or seasonal, or in food preparation, managing the household, caring for the children, and other similar activities.  

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RAISING OF LIVESTOCK, POULTRY OR FISH NOT EMBRACED IN THE TERM AGRICULTURE - Lands devoted to
raising of livestock, poultry and swine are exempt from the agrarian reform program because they are industrial land, not agricultural.

LUZ FARMS V. SEC OF AGRA
- Unconstitutional to include lands devoted to raising of livestock, poultry and swine within agriculture because no land is tilled and no crop is harvested.
- Land is not the primary resource in raising of livestock, poultry or swine.
- Does not sprout from land and are not fruits of land.
CHAPTER II Coverage

Section 4. Scope. -

- The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture:
  - Provided: That landholdings of landowners with a total area of five (5) hectares and below shall not be covered for acquisition and distribution to qualified beneficiaries.

- More specifically, the following lands are covered by the CARP:
  - All alienable and disposable lands of the public domain devoted to or suitable for agriculture,
    - No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;
  - All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
  - All other lands owned by the Government devoted to or suitable for agriculture; and
  - All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

- A comprehensive inventory system in consonance with the national land use plan shall be instituted by the Department of Agrarian Reform (DAR), in accordance with the Local Government Code, for the purpose of properly identifying and classifying farmlands within one (1) year from effectivity of this Act, without prejudice to the implementation of the land acquisition and distribution.

LANDS COVERED BY THE AGRARIAN REFORM LAW

- All public and private agricultural lands
- Other lands of public domain suitable for agriculture

LANDS NOT COVERED BY THE AGRARIAN REFORM LAW

- Private lands with total area of 5 hectares and below
  - law says landholdings of landowners with a total area of 5 hectares and below shall not be covered for acquisition and distribution to qualified beneficiaries

- Lands actually, directly and exclusively used for
  - parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves
  - prawn farms and fishponds (private lands)

- Lands actually, directly and exclusively used and found to be necessary for
  - National defense
  - School sites and campuses
  - Experimental farm stations operated for educational purposes
  - Seeds and seedling research and pilot production center
  - Church sites and convents appurtenant thereto
  - Mosque sites and Islamic centers appurtenant thereto
  - Communal burial grounds and cemeteries
  - Penal colonies and penal farms actually worked by the inmates
  - Research and quarantine centers
  - All lands with 18% slope and over
    - except those already developed.
Section 5. Schedule of Implementation. – The distribution of all lands covered by this Act shall be implemented immediately and completed within ten (10) years from the effectivity thereof.

IMPLEMENTATION EXTENDED BY RA 9700 to JUNE 30, 2014

Section 6. Retention Limits.

• Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land,
  o the size of which shall vary according to factors governing a viable family-size farm, such as
    ▪ commodity produced,
    ▪ terrain,
    ▪ infrastructure, and
    ▪ soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder,
• But in no case shall retention by the landowner exceed five (5) hectares.
• Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (  
  o he is at least fifteen (15) years of age; and (  
  o he is actually tilling the land or directly managing the farm:
• Provided, that landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the areas originally retained by them thereunder:
• Provided, further, 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.
• 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,
  o tenant shall have the option to choose whether to
    ▪ remain in retained area
      • he shall be considered a leaseholder and shall lose his right to be a beneficiary
      ▪ be a beneficiary in the same or another agricultural land with similar or comparable features.
      • he loses his right as a leaseholder to the land retained by the landowner.
    o The tenant must exercise this option within a period of (1) year from 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.
• Upon the effectivity of this Act, any sale, disposition, lease, management, contract or transfer of possession of private lands executed by the original landowner in violation of the 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 a period of three (3) months after the effectivity of this Act.
  o Thereafter, all Registers of Deeds shall inform the Department of Agrarian Reform (DAR) within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

RETENTION RIGHT OF LANDOWNER

• Landowner has right to retain not more than 5 hectares of his landholdings
  o maximum retention of 5 hectares
• Retained area does not have to be personally cultivated by the landowner
  o Cultivation can be done indirectly through labor administration
LANDOWNER WHO ALREADY EXERCISED RETENTION RIGHTS UNDER PD 27 CANT EXERCISE RETENTION RIGHTS UNDER CARP
- If landowner chooses to retain 5 hectares under CARL, 7 hectares previously retained under PD 27 shall be immediately placed under CARP.

CAN SPOUSES RETAIN 5 HECTARES EACH UNDER THE AGRARIAN REFORM LAW
- Conjugal or Absolute Community - spouses can only retain 5 hectares
- Separation of property - spouses can retain 5 hectares each or a total of 10 hectares

LAND OWNER HAS RIGHT TO CHOSE AREA TO BE RETAINED
- Land owners choice of area to be retained prevails as long as:
  o Chosen area must be compact or contiguous
  o Does not exceed retention ceiling of 5 hectares
- Landowner must exercise his right of retention within 60 days from receipt of Notice of Coverage

FAILURE OF LANDOWNER TO EXERCISE RIGHT OF RETENTION - Municipal Agrarian Reform Officer will designate retained area for landowner if landowner fails to exercise his right of retention within allotted time

CAN A LANDOWNER EXERCISE RIGHT TO RETENTION OVER THE LAND WHICH HAS ALREADY BEEN COVERED BY AN EMANCIPATION PATENT OR CERTIFICATE OF LAND OWNERSHIP AWARD
- Emancipation Patent or Certificate of Land Ownership Award to beneficiaries does not absolutely bar landowner from retaining area covered
- If landowner is deprived of right to retention, he may file a petition for cancellation of EP or CLOA issued to the tenants
  o EP or CLOA may be cancelled if land covered is found to be part of landowner’s retained area

SUPPOSE THE RETENTION AREA CHosen BY THE LANDOWNER IS TENANTED, WHAT HAPPENS TO THE TENANT
- Tenant may choose
  o to remain therein or
  o be a beneficiary in the same or another agricultural land with similar or comparable features
- Option must be exercised within a period of 1 year from time landowner manifests choice of area for retention
- Law refers to an Agricultural Tenant, not just any settler on the land
  o Substantial evidence of landlord tenant relationship must exist
    ▪ Landowner has engaged a person to personally cultivate an agricultural land
    ▪ Landowner is compensated
      ▪ in terms of share in produce (share tenancy) or
      ▪ in terms of price certain or ascertainable in produce or in money or both (leasehold tenancy)
  o mere occupation or cultivation of an agricultural land will not ipso facto make tiller an agricultural tenant

IF THE TENANT CHOOSES TO REMAIN IN THE RETAINED AREA, HE BECOMES AN AGRICULTURAL LESSEE
- Tenant becomes an Agricultural Lessee, not a tenant and is therefore no longer qualified to be an agrarian reform beneficiary

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4 DECREED EMANCIPATION OF TENANTS FROM BONDAGE OF SOIL, TRANSFERRING TO THEM OWNERSHIP OF LAND THEY TILL AND PROVIDING INSTRUMENTS AND MECHANISM THEREFOR
• Rights of Agricultural Lessee
  o peaceful possession and enjoyment of the land
  o manage and work on land in a manner and method of cultivation and harvest which conform to proven farm practices
  o mechanize all or any phase of his farm work
  o deal with millers and processors and attend to issuance of quedans and warehouse receipts for the produce due him
  o be afforded a home lot
  o be indemnified for the cost and expenses incurred in the cultivation, planting or harvesting and other expenses incidental to improvement of his crop in case he surrenders or abandons his landholding for just case or ejected therefrom
  o buy the agricultural landholding under reasonable terms and condition in case the agricultural lessor decides to sell the same
  o redeem the landholding at a reasonable price and consideration in case agricultural lessor sold same to a third person without his knowledge

• Obligations of Agricultural Lessee
  o Cultivate and take care of the farm, growing crops and other improvements on the landholding as a good father of a family and perform work in accordance with proven farm practices
  o Inform agricultural lessor within a reasonable time of any trespass committed by 3rd persons upon farm, without prejudice to his direct action against the trespasser
  o Take reasonable care of work animals and farm implements delivered to him by agricultural lessor and see that they are not used for purposes other than those intended or used by another without the knowledge and consent of the agricultural lessor
  o Notify agricultural lessor at least 3 days before date of harvesting or threshing
  o Pay lease rental to agricultural lessor when due

TERM OF THE LEASE- AGRICULTURAL LEASEHOLD RELATION IS EXTINGUISHED BY
• Abandonment or voluntary surrender of land holding by lessee
• Absence of successor in event of death or permanent incapacity of lessee
  o Surviving Spouse
  o Eldest direct descendant by consanguinity
  o Next eldest descendant or descendants in order of their age
• Death or incapacity of the lessee does not necessarily extinguish the leasehold relation because the leasehold continues between agricultural lessor and person who can cultivate the landholding personally
• Agricultural leasehold is not terminated or extinguished by mere expiration of the term or period in a leasehold contract
• Not terminated by transfer of ownership or legal possession of the landholding
  o if agricultural lessor transfers ownership or legal possession of landholding, transferee becomes agricultural lessor

EFFECT IF THE TENANT CHOOSES TO BE A BENEFICIARY - Tenant loses his right to be a lessee of the land retained by the landowner

CHILDREN OF THE LANDOWNER ARE ENTITLED TO 3 HECTARES EACH
• if landowner owns more than 5 hectares of agricultural land, excess area may be awarded to children of landowner to extent of 3 hectares for each child under the following conditions
  o child is at least 15 years
o child is actually tilling the land or directly managing the farm

• Qualified child who owns less than 5 hectares is still entitled to an award of his parents landholding provided that his total area including the awarded area does not exceed the 5 hectares ownership ceiling
  o ex. Child already owns 3 hectares of agricultural land, he can still be awarded 2 hectares from his parents landholding.

• Land awarded to qualified children of landowners cannot be sold, transferred, conveyed within a period of 10 years except
  o Hereditary succession
  o To the government
  o land Bank of the Philippines
  o other qualified beneficiaries

• Children or spouse can repurchase land from government or land bank within 2 years from date of transfer

RIGHT OF HOMESTEADERS⁵ VIS A VIS RIGHT OF TENANTS

• Constitution and CARL respect the superiority of rights of homesteaders over rights of tenants
  o Art 13 Sec 6 - The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.
  o CARL Sec 6 - 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

• Agrarian Reform is a remedial measure pursuant to social justice precept of the Constitution but it was not meant to defeat the very purpose of the enactment of CA 141/ Homestead Act
  o enacted for welfare and protection of the poor
  o Gives a needy citizen a piece of land where he may build a modest house for himself and family and plant what is necessary for subsistence and satisfaction of life’s other needs

• Owners or direct compulsory heirs of lands acquired through homestead grants of Free Patents under CA 141 or the Homestead Act are entitled to retain the entire area even if it exceeds 5 hectares as long as
  o they were cultivating the same at the time of approval of CARL June 15 1988
  o continue to cultivate the same

SEC. 6-A. Exception to Retention Limits.

• Provincial, city and municipal government units acquiring private agricultural lands by expropriation or other modes of acquisition to be used for actual, direct and exclusive public purposes, such as roads and bridges, public markets, school sites, resettlement sites, local government facilities, public parks and barangay plazas or squares, consistent with the approved local comprehensive land use plan, shall not be subject to the five (5)-hectare retention limit under this Section and Sections 70 and 73(a) of Republic Act No. 6657, as amended:

• Provided, That lands subject to CARP shall first undergo the land acquisition and distribution process of the program:
• Provided, further, That when these lands have been subjected to expropriation, the agrarian reform beneficiaries therein shall be paid just compensation.

EXPROPRIATION OF PRIVATE AGRICULTURAL LANDS BY LGUS - if LGU expropriates private agricultural land for

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⁵ a mode of acquiring alienable and disposable lands of the public domain for agricultural purposes conditioned upon actual cultivation and residence

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actual, direct and exclusive public purposes, DAR should first subject it to agrarian reform coverage

- land should first be acquired by the national government through DAR
- DAR will pay just compensation to landowner
- Thereafter, DAR will distribute the land to agrarian reform beneficiaries
- after distribution, LGs will expropriate the land and pay the agrarian reform beneficiaries just compensation

SEC. 6-B. Review of Limits of Land Size.
- Within (6) months from the effectivity of this Act, the DAR shall submit a comprehensive study on the land size appropriate for each type of crop to Congress for a possible review of limits of land sizes provided in this Act."

IMPORT OF THE LAW
- implied recognition that uniform setting of 5 hectare limit for all agricultural landholding may not be feasible because of the economic differences for each agricultural products
- lands planted to different crops cannot be treated identically

Section 7. Priorities.
- The DAR, in coordination with the Presidential Agrarian Reform Council (PARC) shall plan and program the final acquisition and distribution of all remaining unacquired and undistributed agricultural lands from the effectivity of this Act until June 30, 2014. Lands shall be acquired and distributed as follows:
- Phase One:
  - During the (5)-year extension period hereafter all remaining lands above fifty (50) hectares shall be covered for purposes of agrarian reform upon the effectivity of this Act.
  - All private agricultural lands of landowners with aggregate landholdings in excess of fifty (50) hectares which have already been subjected to a notice of coverage issued on or before December 10, 2008;
  - rice and corn lands under Presidential Decree No. 27; all idle or abandoned lands; all private lands voluntarily offered by the owners for agrarian reform;
  - Provided, That with respect to voluntary land transfer, only those submitted by June 30, 2009 shall be allowed
  - Provided, further, That after June 30, 2009, the modes of acquisition shall be limited to voluntary offer to sell and compulsory acquisition:
  - Provided, furthermore, That all previously acquired lands wherein valuation is subject to challenge by landowners shall be completed and finally resolved pursuant to Section 17 of Republic Act No. 6657, as amended:
  - Provided, finally, as mandated by the Constitution, Republic Act No. 6657, as amended, and Republic Act No. 3844, as amended, only farmers (tenants or lessees) and regular farmworkers actually tilling the lands, as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested under oath by the landowners, are the qualified beneficiaries.
  - The intended beneficiary shall state under oath before the judge of the city or municipal court that he/she is willing to work on the land to make it productive and to assume the obligation of paying the amortization for the compensation of the land and the land taxes thereon; all lands foreclosed by government financial institutions; all lands acquired by the Presidential Commission on Good Government (PCGG); and all other lands owned by the government devoted to or suitable for agriculture, which shall be acquired and distributed immediately upon the effectivity of this Act, with the implementation to be completed by June 30, 2012;
- Phase Two:
  - (a) Lands twenty-four (24) hectares up to fifty (50) hectares shall likewise be covered for purposes of agrarian reform upon the effectivity of this Act. All alienable and disposable public agricultural lands; all arable public agricultural lands under agro-forest, pasture and agricultural leases already cultivated and
planted to crops in accordance with Section 6, Article XIII of the Constitution; all public agricultural lands which are to be opened for new development and resettlement: and all private agricultural lands of landowners with aggregate landholdings above twenty-four (24) hectares up to fifty (50) hectares which have already been subjected to a notice of coverage issued on or before December 10, 2008, to implement principally the rights of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till, which shall be distributed immediately upon the effectivity of this Act, with the implementation to be completed by June 30, 2012; and

- All remaining private agricultural lands of landowners with aggregate landholdings in excess of twenty-four (24) hectares, regardless as to whether these have been subjected to notices of coverage or not, with the implementation to begin on July 1, 2012 and to be completed by June 30, 2013;

- Phase Three: All other private agricultural lands commencing with large landholdings and proceeding to medium and small landholdings under the following schedule:
  - (a) Lands of landowners with aggregate landholdings above ten (10) hectares up to twenty-four (24) hectares, insofar as the excess hectareage above ten (10) hectares is concerned, to begin on July 1, 2012 and to be completed by June 30, 2013; and
  - (b) Lands of landowners with aggregate landholdings from the retention limit up to ten (10) hectares, to begin on July 1, 2013 and to be completed by June 30, 2014; to implement principally the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till.

- The schedule of acquisition and redistribution of all agricultural lands covered by this program shall be made in accordance with the above order of priority, which shall be provided in the implementing rules to be prepared by the PARC, taking into consideration the following: the landholdings wherein the farmers are organized and understand the meaning and obligations of farmland ownership; the distribution of lands to the tillers at the earliest practicable time; the enhancement of agricultural productivity; and the availability of funds and resources to implement and support the program: Provided, That the PARC shall design and conduct seminars, symposia, information campaigns, and other similar programs for farmers who are not organized or not covered by any landholdings. Completion by these farmers of the aforementioned seminars, symposia, and other similar programs shall be encouraged in the implementation of this Act particularly the provisions of this Section.

- Land acquisition and distribution shall be completed by June 30, 2014 on a province-by-province basis. In any case, the PARC or the PARC Executive Committee (PARC EXCOM), upon recommendation by the Provincial Agrarian Reform Coordinating Committee (PARCCOM), may declare certain provinces as priority land reform areas, in which case the acquisition and distribution of private agricultural lands therein under advanced phases may be implemented ahead of the above schedules on the condition that prior phases in these provinces have been completed: Provided, That notwithstanding the above schedules, phase three (b) shall not be implemented in a particular province until at least ninety percent (90%) of the provincial balance of that particular province as of January 1, 2009 under Phase One, Phase Two (a), Phase Two (b), and Phase Three (a), excluding lands under the jurisdiction of the Department of Environment and Natural Resources (DENR), have been successfully completed.

- The PARC shall establish guidelines to implement the above priorities and distribution scheme, including the determination of who are qualified beneficiaries: Provided, That an owner-tiller may be a beneficiary of the land he/she does not own but is actually cultivating to the extent of the difference between the area of the land he/she owns and the award ceiling of three (3) hectares: Provided, further, That collective ownership by the farmer beneficiaries shall be subject to Section 25 of Republic Act No. 6657, as amended: Provided, furthermore, That rural women shall be given the opportunity to participate in the development planning and implementation of this Act: Provided, finally, That in no case should the agrarian reform beneficiaries’ sex, economic, religious, social, cultural and political attributes adversely affect the distribution of lands."
EXTENSION PERIOD UP TO JUNE 30 2014

Order of Priority

- Lands with area of more than 50 hectares to be complete by June 30 2012
  - those which already have been subjected to a Notice of Coverage on or before Dec 10 2008
  - rice and corn lands
  - idle or abandoned lands
  - any agricultural land not cultivated, tilled or developed to produce any crop not devoted to any specific economic purpose continuously for a period of 3 years immediately prior to receipt of notice of acquisition by government
    - does not include land that has permanently or regularly devoted to non-agricultural purposes
    - does not include land that has become unproductive due to force majeure or any other fortuitous event provided that prior to such event, land was used for agricultural or other economic purpose
  - private lands voluntarily offered by owners for agrarian reform
  - lands foreclosed by government financial institutions
  - lands acquired by Presidential Commission on Good Government
  - all other lands owned by government devoted to or suitable for agriculture

- Lands with an area of 24 hectares up to 50 hectares to be complete by June 30 2013
  - all alienable and disposable public agricultural lands
  - all arable public agricultural lands under agroforest, pasture and agricultural leases already cultivated and planted to crops in accordance in Sec 6 Art 13 of the Consti
  - all public agricultural lands which are to be opened for new development and resettlement
  - all private agricultural lands which have already been subjected to a notice of coverage issued on or before Dec 10 2008
  - all remaining private agricultural lands regardless as to whether they have been subjected to notices of coverage

- Lands with an area of more than 10 hectares up to 24 hectares to be completed by June 30 2013

- Lands from retention limit up to 10 hectares to be complete by June 30 2013

Farmer (tenants or lessees) and regular farmworkers actually tilling the lands are considered to be qualified beneficiaries only if

- certified under oath by the Barangay Agrarian Reform Council and
- attested under oath by landowners
- Intended beneficiary shall state under oath before judge of city or municipality court that he is willing to work on the land to make it productive and to assume obligation of paying amortization for compensation of land and land taxes thereon

Section 8. Multinational Corporations.

- All lands of the public domain leased, held or possessed by multinational corporations or associations, and other lands owned by the government or by government-owned or controlled corporations, associations, institutions, or entities, devoted to existing and operational agri-business or agro-industrial enterprises, operated by multinational corporations and associations, shall be programmed for acquisition and distribution immediately upon the effectivity of this Act, with the implementation to be completed within three (3) years.

- Lands covered by the paragraph immediately preceding, under lease, management, grower or service contracts, and the like, shall be disposed of as follows:
  - Lease, management, grower or service contracts covering such lands covering an aggregate area in excess of 1,000 hectares, leased or held by foreign individuals in excess of 500 hectares are deemed
amended to conform with the limits set forth in Section 3 of Article XII of the Constitution.

- Contracts covering areas not in excess of 1,000 hectares in the case of such corporations and associations, and 500 hectares, in the case of such individuals, shall be allowed to continue under their original terms and conditions but not beyond August 29, 1992, or their valid termination, whichever comes sooner, after which, such agreements shall continue only when confirmed by the appropriate government agency. Such contracts shall likewise continue even after the lands has been transferred to beneficiaries or awardees thereof, which transfer shall be immediately commenced and implemented and completed within the period of three (3) years mentioned in the first paragraph hereof.
- In no case will such leases and other agreements now being implemented extend beyond August 29, 1992, when all lands subject hereof shall have been distributed completely to qualified beneficiaries or awardees.

- Such agreements can continue thereafter only under a new contract between the government or qualified beneficiaries or awardees, on the one hand, and said enterprises, on the other.
- Lands leased, held or possessed by multinational corporations, owned by private individuals and private non-governmental corporations, associations, institutions and entities, citizens of the Philippines, shall be subject to immediate compulsory acquisition and distribution upon the expiration of the applicable lease, management, grower or service contract in effect as of August 29, 1987, or otherwise, upon its valid termination, whichever comes sooner, but not later than after ten (10) years following the effectivity of the Act. However during the said period of effectivity, the government shall take steps to acquire these lands for immediate distribution thereafter.
- In general, lands shall be distributed directly to the individual worker-beneficiaries.
- In case it is not economically feasible and sound to divide the land, then they shall form a workers' cooperative or association which will deal with the corporation or business association or any other proper party for the purpose of entering into a lease or growers agreement and for all other legitimate purposes. Until a new agreement is entered into by and between the workers' cooperative or association and the corporation or business association or any other proper party, any agreement existing at the time this Act takes effect between the former and the previous landowner shall be respected by both the workers' cooperative or association and the corporation, business, association or such other proper party. In no case shall the implementation or application of this Act justify or result in the reduction of status or diminution of any benefits received or enjoyed by the worker-beneficiaries, or in which they may have a vested right, at the time this Act becomes effective.
- The provisions of Section 32 of this Act, with regard to production and income-sharing shall apply to farms operated by multinational corporations.
- During the transition period, the new owners shall be assisted in their efforts to learn modern technology in production. Enterprises which show a willingness and commitment and good-faith efforts to impart voluntarily such advanced technology will be given preferential treatment where feasible.
- In no case shall a foreign corporation, association, entity or individual enjoy any rights or privileges better than those enjoyed by a domestic corporation, association, entity or individual.

AGRICULTURAL LANDS LEASED, HELD OR POSSESSED BY MULTINATIONAL CORPORATIONS ARE COVERED
BY THE CARL ACQUISITION AND DISTRIBUTION

- Land shall be distributed directly to individual worker beneficiaries
- If not economically feasible and sound to divide the land, individual worker beneficiaries shall form a workers' cooperative or association which will deal with the corporation by way of lease growers agreement and other legitimate purposes

Section 9. Ancestral Lands.

- For purposes of this Act, ancestral lands of each indigenous cultural community shall include, but not be limited to, lands in the actual, continuous and open possession and occupation of the community and its members: provided, that the Torrens Systems shall be respected.
AGRICULTURAL LAW - UNGOS BOOK NOTES

- The right of these communities to their ancestral lands shall be protected to ensure their economic, social and cultural well-being, in line with the principles of self-determination and autonomy, the systems of land ownership, land use, and the modes of settling land disputes of all these communities must be recognized and respected.
- Any provision of law to the contrary notwithstanding, the PARC may suspend the implementation of this Act with respect to ancestral lands for the purpose of identifying and delineating such lands: provided, that in the autonomous regions, the respective legislatures may enact their own laws on ancestral domain subject to the provisions of the Constitution and the principles enunciated in this Act and other national laws.

ANCESTRAL LAND DEFINED

- Lands of public domain that have been in open, continuous, exclusive and notorious occupation and cultivation by members of the National Cultural Communities by themselves or through their ancestors, under a bona fide claim of acquisition of ownership according to their customs and traditions for a period of at least 30 years before date of approval of PD 410.
- Lands occupied, possessed and utilized by individuals, families and clans who are members of indigenous cultural communities or indigenous peoples since time immemorial, by themselves or through their predecessors in interest, under claims of individual or traditional group ownership, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects and other voluntary dealings, entered into by government and private individuals/corporations, including by not limited to residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

ANCESTRAL LANDS EXEMPTED FROM THE AGRARIAN REFORM LAW

- CARL recognizes and respect systems of land ownership, land use and modes of settling land disputes of all indigenous cultural communities or indigenous people in line with self-determination and autonomy.
- Autonomous region - respective legislatures may enact their own laws on ancestral domains subject to
  - Constitution
  - Principles in CARL and
  - Other national laws.

Section 10. Exemptions and Exclusions.

- Lands actually, directly and exclusively used for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves shall be exempt from the coverage of this Act.
- Private lands actually, directly and exclusively used for prawn farms and fishponds shall be exempt from the coverage of this Act: Provided,
  - That said prawn farms and fishponds have not been distributed and Certificate of Land Ownership Award (CLOA) issued to agrarian reform beneficiaries under the Comprehensive Agrarian Reform Program.
  - In cases where the fishponds or prawn farms have been subjected to the Comprehensive Agrarian Reform Law, by voluntary offer to sell, or commercial farms deferment or notice of compulsory acquisition, a simple and absolute majority of the actual regular workers or tenants must consent to the exemption within one (1) year from the effectivity of this Act. When the workers or tenants do not agree to this exemption, the fishponds or prawn farms shall be distributed collectively to the worker-beneficiaries or tenants who shall form a cooperative or association to manage the same.
  - In cases where the fishponds or prawn farms have not been subjected to the Comprehensive Agrarian Reform Law, the consent of the farm workers shall no longer be necessary, however, the provision of Section 32-A hereof on incentives shall apply.\(^3\)
- Lands actually, directly and exclusively used and found to be necessary for national defense, school sites and campuses, including experimental farm stations operated by public or private schools for educational purposes, seeds and seedling research and pilot production center, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal.
farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent (18%) slope and over, except those already developed, shall be exempt from the coverage of this Act.

LAND CLASSIFICATION IN THE TAX DECLARATION IS NOT CONCLUSIVE
- tax declarations are not the sole basis of land classification
- even if tax declaration classifies land as agricultural, the tax declaration is still refutable

REPUBLIC V. CA 2000
- Landowners Green City Estate and Development Court: 112 hectares in Rizal
  - tax declaration: Agricultural
- DAR subject the land to CARP
- Landowners filed an application for exemption from agrarian reform
  - Non agricultural because it is within the residential and forest conservation zones of the town plan/zoning ordinance
- DAR denied application based on tax declaration
- HELD DAR was wrong in denying the application for exemption by mere fact that the tax declaration classified the land as agricultural
- Tax declarations are not the sole basis for the classification of land
- DAR AO asks for other documents to be submitted when applying for exemption from CARP

LANDS CLASSIFIED AS NON AGRICULTURAL PRIOR TO EFFECTIVITY OF CARL ARE NOT COVERED
- Land already classified for residential, commercial or industrial use by HLRUB prior to CARL are not subject to agrarian Reform
- Lands converted prior to June 15 1988
- DAR is bound by such conversions

LANDS WITH AT LEAST 18% SCOPE ARE EXEMPTED FROM COVERAGE OF AGRARIAN REFORM
- reason is to prevent adverse effects on lowlands and streams due to soil erosions
- considered permanent forests or forest reserves, regardless of condition of vegetative cover, occupancy or use of any kind → not alienable or disposable
- if land with at least 18% slope was previously classified as alienable or disposable but not yet titled → reverted to category of public forest
- if land has been covered by an approved public land application or occupied openly, continuously, adversely and publicly for a period of not less than 30 years as effectivity of Forestry Reform Code → remains as alienable or disposable on condition that land is kept in vegetative state sufficient to prevent erosion and adverse effects on lowlands and streams

SCHOOL SITES AND CAMPUSES
- Exempted if lands are
  - actually, directly and exclusively used and
  - found necessary by the SCHOOL for school sites and campuses
- DAR has no right to substitute judgment of discretion for the determination of the necessity of the school

CMU V. DARAB
- Landowner: Central Mindanao University
  - CMU - agricultural institution
3000 hectares of land

Livelihood program: leased 4 to 5 hectares each to faculty and employees in groups of 5s

Faculty and Employees filed a complaint before DAR, asking DAR to declare them as tenants under CARL, so that they could become agrarian reform beneficiaries. DAR did not agree.

DAR then segregated 400 hectares of suitable, compact and contiguous portions of CMU land and subjected it to agrarian reform coverage for distribution to qualified beneficiaries on the ground that it was not directly, actually and exclusively used for school site.

Held: DAR was incorrect in segregating the 400 hectares of CMU land.

CMU is a school established to promote agriculture and industry, the need for a vast track of land for future expansion is obvious.

The determination of when and what lands are found to be necessary for use the CMU, the school is in the best position to resolve and answer the question and pass upon the problem of its needs in relation to its policies.

SECRETARY OF AGRARIAN REFORM HAS JURISDICTION TO EXEMPT A PROPERTY FROM AGRARIAN REFORM COVERAGE

Sec. 11. Commercial Farming.

Commercial farms, which are private agricultural lands devoted to saltbeds, 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 (10) years from the effectivity of this Act.

In the case of new farms, the ten-year period shall begin from the first year of commercial production and operation, as determined by the DAR.

During the ten-year period, the Government shall initiate steps necessary to acquire these lands, upon payment of just compensation for the land and the improvements thereon, preferably in favor of organized cooperatives or associations which shall thereafter manage the said lands for the workers-beneficiaries.

COMMERCIAL FARMS ARE LANDS DEVOTED TO

- Saltbeds
- Fruit farms
- Orchards
- Vegetable and cut flower farms
- Cacao, coffee, and rubber plantations

IMPLEMENTATION OF AGRARIAN REFORM LAW DEFERRED ON COMMERCIAL FARMS - Compulsory acquisition and distribution of commercial farms has been deferred for 10 years

- from effectivity of CARL (June 1988) - for farms already existing when law took effect
- from 1st year of commercial production and operation - for new farms

MODE OF ACQUISITION OF COMMERCIAL FARMS

- Voluntary offer to sell VOS
- Compulsory acquisition CA
- Direct payment scheme DPS

MANNER OF DISTRIBUTION OF COMMERCIAL FARMS - individually or collectively

- Individual Beneficiaries
  - 3 hectares each or minimum of 1 hectare each if land is not sufficient to accommodate them
  - Order of priority in distribution
AGRARIAN LAW - UNGOS BOOK NOTES

- Agricultural lessees and share tenants
- Regular farm workers
- Seasonal farm workers
- Other farm workers
- actual tillers or occupants of public lands
- collectives or cooperatives of above beneficiaries
- others directly working on the land

- Collective Beneficiaries - if not economically feasible and sound to divide the land
  - Beneficiaries will be obliged for form a workers cooperative or association
- Agrarian reform beneficiaries may recommend that infrastructure facilities and improvements necessary and beneficial to operation of the farm be subject to acquisition, to be determined by DAR.
  - Includes buildings, roads, machinery, receptacles, instruments or implements permanently attached to the land

QUALIFICATIONS OF COMMERCIAL FARM BENEFICIARIES- Agrarian reform beneficiaries for acquired commercial farms
- 18 years old at time of filing of application as beneficiary
- Willingness, aptitude and ability to cultivate and make land productive
- Must have been employed in commercial farm between June 15 1988 or upon expiration of deferment
- Farm workers who have worked the longest on the land continuously will be given priority

WHO ARE DISQUALIFIED TO BECOME COMMERCIAL FARM BENEFICIARIES
- Farm workers who have retired from service, whether optional or compulsory
- Farm workers who have resigned from their employment with the farm
- Farm workers who have been dismissed for cause
- Farm workers, lessees, or tenants who waive or refuse to be a beneficiary
- Farm workers, lessees or tenants who have committed a violation of agrarian reform laws and regulations

FREEDOM OF BENEFICIARIES TO CHOOSE THE TYPE OF AGRIBUSINESS
- Choose the type of agribusiness venture arrangement that will maintain the economic viability of the farm
- To market their products or enter into marketing arrangements
- To avail of services or assistance of individuals, associations or non governmental organizations in negotiating for the most advantageous agribusiness venture arrangement, enterprise development and capability building

TYPES OF AGRIBUSINESS VENTURE ARRANGEMENTS WHICH COMMERCIAL FARM BENEFICIARIES OR COOPERATIVES MAY ENTER INTO (DAR AO 09 1988)
- Joint Venture Arrangement
  - Company is organized and co-owned by an investor and agrarian reform beneficiaries through their cooperative or association
  - Investor may provide management and marketing skills, technology infrastructure and capital
  - Agrarian reform beneficiaries contribute through labor, usufructuary, rights to land and capital infusion
- Lease Arrangement
  - Agrarian reform beneficiaries through their cooperatives or association enter into a contract of lease with the landowner or investor
  - Lessee controls farm operations within an agreed period of time not exceeding 10 years, extendible by agreement
- Contract Growing/Growership Arrangement
AGRARIAN LAW - UNGOS BOOK NOTES

- Agrarian reform beneficiaries or cooperative produce certain crops for an investor or agribusiness firm which buys the produce at pre arranged terms

- Management Contract
  - Agrarian reform beneficiaries or cooperative or association hire the services of landowner or investor to manage and operate the farm in exchange for fixed wages or commission

- Build-Operate-Transfer Scheme
  - Project proponent undertakes the financing and construction of a given infrastructure facility and operation and maintenance thereof for an agreed period of time not exceeding 25 years subject to extension

RIGHT OF RETENTION OVER COMMERCIAL FARMS
- Owners of commercial farms, individual or corporate, are entitled to retention rights under Sec 6 of CARL
CHAPTER III Improvement of Tenurial and Labor Relations

Section 12. Determination of Lease Rentals. - In order to protect and improve the tenurial and economic status of the farmers in tenanted lands under the retention limit and lands not yet acquired under this Act, the DAR is mandated to determine and fix immediately the lease rentals thereof in accordance with Section 34 of Republic Act No. 3844, as amended: provided, that the DAR shall immediately and periodically review and adjust the rental structure for different crops, including rice and corn, or different regions in order to improve progressively the conditions of the farmer, tenant or lessee.

POWER OF DAR TO FIX LEASE RENTALS - Tenant may choose to remain in portion retained by landowner, in which case he will no longer be a tenant but a lessee (Sec. 6). To protect economic status of farmer, DAR can determine and fix the lease rental,

- For lands devoted to rice and other crops
  - 25% of average normal harvest after deducting amount used for seeds and cost of harvest or threshing
  - if no normal harvests→ estimated normal harvest during 3 agricultural years immediately preceding the date the leasehold was established

- For sugar cane lands
  - 24% of average normal harvest less value of cost of seeds/cane points, harvesting, loading, hauling and or trucking fee and cost of processing

- For coconut lands
  - 25% of average normal harvest for a specific area for preceding 3 calendar years less value of production costs

Section 13. Production-Sharing Plan.

- Any enterprise adopting the scheme provided for in Section 32 or operating under a production venture, lease, management contract or other similar arrangement and any farm covered by Sections 8 and 11 hereof is hereby mandated to execute within ninety (90) days from the effectivity of this Act, a production-sharing plan, under guidelines prescribed by the appropriate government agency.

- Nothing herein shall be construed to sanction the diminution of any benefits such as salaries, bonuses, leaves and working conditions granted to the employee-beneficiaries under existing laws, agreements, and voluntary practice by the enterprise, nor shall the enterprise and its employee-beneficiaries be prevented from entering into any agreement with terms more favorable to the latter.

APPLICABILITY OF THE LAW Obligations to a production sharing plan applies only to

- Farms operating under a production venture, lease, management contract or other similar arrangement
- Farms leased or operated by multinational corporations
- Commercial farms
  - Those devoted to salt beds, fruit farms, orchards, vegetable and cut flower farms, cacao, coffee or rubber plantations
CHAPTER IV Registration

Section 14. Registration of Landowners. – Within one hundred eighty (180) days from the effectivity of this Act, all persons, natural or juridical, including government entities, that own or claim to own agricultural lands, whether in their names or in the name of others, except those who have already registered pursuant to Executive Order No. 229, who shall be entitled to such incentives as may be provided for the PARC, shall file a sworn statement in the proper assessor’s office in the form to be prescribed by the DAR, stating the following information:

- the description and area of the property;
- the average gross income from the property for at least three (3) years;
- the names of all tenants and farmworkers therein;
- the crops planted in the property and the area covered by each crop as of June 1, 1987;
- the terms of mortgages, lease, and management contracts subsisting as of June 1, 1987, and
- the latest declared market value of the land as determined by the city or provincial assessor.

PURPOSE OF SWORN STATEMENT - Help DAR identify the lands and their owners for effective implementation of agrarian reform program

Section 15. Registration of Beneficiaries. – The DAR in coordination with the Barangay Agrarian Reform Committee (BARC) as organized in this Act, shall register all agricultural lessees, tenants and farmworkers who are qualified to be beneficiaries of the CARP. These potential beneficiaries with the assistance of the BARC and the DAR shall provide the following data:

- names and members of their immediate farm household;
- owners or administrators of the lands they work on and the length of tenurial relationship;
- location and area of the land they work;
- crops planted; and
- their share in the harvest or amount of rental paid or wages received.

A copy of the registry or list of all potential CARP beneficiaries in the barangay shall be posted in the barangay hall, school or other public buildings in the barangay where it shall be open to inspection by the public at all reasonable hours.

PURPOSE OF REGISTRATION OF AGRICULTURAL LESSEES, TENANTS AND FARM WORKERS - Develop a databank of potential and qualified beneficiaries for effective implementation of the agrarian reform program
CHAPTER V Land Acquisition

Section 16. Procedure for Acquisition and Distribution of Private Lands.— For purposes of acquisition of private lands, the following procedures shall be followed:

- After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Sections 17, 18, and other pertinent provisions hereof.

- Within thirty (30) days from the date of receipt of written notice by personal delivery or registered mail, the landowner, his administrator or representative shall inform the DAR of his acceptance or rejection of the offer.

- If the landowner accepts the offer of the DAR, the Land Bank of the Philippines (LBP) shall pay the landowner the purchase price of the land within thirty (30) days after he executes and delivers a deed of transfer in favor of the government and surrenders the Certificate of Title and other muniments of title.

- In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation for the land requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of the notice. After the expiration of the above period, the matter is deemed submitted for decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision.

- Upon receipt by the landowner of the corresponding payment or, in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries.

- Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

COMPULSORY ACQUISITION OF AGRICULTURAL LANDS PROCESS

- Identification by DAR of land, landowner and beneficiary

- Notice by DAR to landowner about compulsory acquisition and price offer by
  - personal notice or by registered mail and
  - posting of notice in a conspicuous place in barangay hall and municipal hall where land is located

- Reply by landowner about his acceptance or rejection of offered price
  - if landowner accepts - Land Bank will pay the landowner within 30 days from execution and delivery of Deed of Transfer
  - if landowner rejects offer - DAR will determine just compensation thru summary proceedings
  - if landowner disagrees with DAR decision - regular courts of justice for final determination of just compensation

- Taking of immediate possession of land by DAR
  - if landowner receives corresponding payment or
  - landowner does not respond to notice of acquisition

- request by DAR to Register of Deeds to issue Transfer Certificate of Title to Republic of Philippines

- Distribution of land to qualified beneficiaries

TWO NOTICES TO THE LANDOWNER ARE REQUIRED FOR VALIDITY OF IMPLEMENTATION

- Notice of Coverage
  - pursuant to DAR AO 12 1989
  - in compliance with administrative due process

- Notice of Acquisition
pursuant to Sec 16 of CARL

LAND ACQUISITION PROCEDURE SHOULD BE STRICTLY CONSTRUED
- Reason: Land acquisition under agrarian reform law is an extraordinary method of expropriation
- Failure of DAR or any of its agencies to comply with proper procedure for expropriation is a violation of constitutional due process and in effect arbitrary, capricious, whimsical and tainted with grave abuse of discretion
  - ex. No notice of coverage issued

WHEN TITLE OR OWNERSHIP OF THE LAND IS TRANSFERRED TO THE STATE
- Only upon full payment of just compensation
- Title and ownership remains with landowner until final determination of just compensation and fully payment
- Mere fact that DAR deposited offered price with Land Bank does not warrant cancellation of owner's title

OPENING OF TRUST ACCOUNT DOES NOT CONSTITUTE PAYMENT - Law requires just compensation to be paid in cash and Land Bank bonds, not trust accounts.
CHAPTER VI  Compensation

Section 17. Determination of Just Compensation. —In determining just compensation, the cost of acquisition of the land, the value of the standing crop, the current: value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, the assessment made by government assessors, and seventy percent (70%) of the zonal valuation of the Bureau of Internal Revenue (BIR), translated into a basic formula by the DAR shall be considered, subject to the final decision of the proper court. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the nonpayment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.”

CONCEPT OF JUST COMPENSATION

- Defined as the full and fair equivalent of the property taken form its owner by the expropriator
- Measure is not takers gain, but the owners loss
- Equivalent to be rendered for the property to be taken shall be real, substantial, full and ample.
- Correct determination of amount to be paid to the landowner and prompt payment
  - payment within a reasonable time from taking
  - immediate deposit and release of provisional compensation
  - full payment of finally adjudged just compensation
  - without prompt payment, compensation is not just because landowner is made to suffer consequence of being immediately deprived on land while being made to wait before receiving amount necessary to cope with his loss
  - ex. of not prompt payment
    - reimbursement is conditioned on Land Bank’s approval and release of the amount is made to depend upon compliance with documentary requirements
    - partial payment of just compensation

FACTORS USED IN VALUATION OF LANDS

- Capital Net Income  CNI
  - based on land use and productivity
- Comparable Sales  CS
  - 70% of BIR zonal value
- Market Value MV
  - based on tax declaration

FORMULAS

<table>
<thead>
<tr>
<th>When all factors are present</th>
<th>CNI x 0.6 + CS x 0.30 + MV x 0.10 = Land Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>When CNI factor is not present</td>
<td>CS x 0.90 + MV x 0.10 = Land Value</td>
</tr>
<tr>
<td>When CS factor is not present</td>
<td>CNI x 0.90 + MV x 0.10 = Land Value</td>
</tr>
<tr>
<td>Formula when CS and CNI are not present</td>
<td>MV x 2 = Land Value</td>
</tr>
</tbody>
</table>

RECKONING OF VALUATION

- General Rule: Basis for just compensation is the value of property at time it was taken from owner and appropriated to the government
  - if government takes possession of land before institution of expropriation proceedings, value shall be fixed as of time of taking of possession
    - not the time of filing of the complaint
  - Time of taking
AGRARIAN LAW - UNGOS BOOK NOTES

• stage when title is transferred to government or beneficiaries AND
  o the time when agricultural land voluntarily offered by landowner was approved by PARC for agrarian reform coverage through stock distribution scheme
• However, if there is undue delay in payment \(\rightarrow\) value of property should be determined at time of full payment of just compensation
  o Lubrica v. Land Bank
    • Lubrica was deprived of property in 1972 but as of 2006, Lubrica was still not justly compensated
    • inequitable to determine just compensation based on time of taking considering the failure to determine just compensation for a considerable length of time
    • just compensation should be full and fail equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample.

PROCEDURE FOR DETERMINATION OF JUST COMPENSATION
• Land Bank determines value of lands
• DAR makes an offer to landowner based on the Land Bank determination
• If landowner rejects
  o DAR conducts summary administrative proceedings to determine compensation for land by requiring landowner, Land Bank and other interested parties to submit evidence for just compensation
• Party who disagrees with decision of adjudicator may bring the matter to RTC designated as Special Agrarian Court for final determination of just compensation

ROLE OF DARAB
• DARAB or Provincial Agrarian Reform Adjudicators PARAD can conduct summary administrative proceeding for preliminary determination of just compensation in order to determine whether land valuation computations of Land Bank are in accordance with rules or administrative orders.
• Preliminary proceedings of land valuation for purpose of determination of just compensation for acquisition shall be conducted by
  o PARAD - initial land valuation of Land Bank is less than 10M
  o Regional Agrarian Reform Adjudicators - initial land valuation of Land Bank is 50M
  o DARAB - initial land valuation of Land Bank is above 50M
• On event of non availability, inhibition, or disqualification of designated PARAD \(\rightarrow\) RARAD concerned may conduct preliminary proceedings of land valuation notwithstanding that jurisdictional amount is less than 10M
• On account of non-availability, inhibition or disqualification of the RARAD concerned, DARAB may conduct the preliminary proceedings of land valuation or designate the same to an Adjusticator form among the PARADs in the region.

VALUATION SET BY DAR NOT CONCLUSIVE
• Valuation set by Land Bank is not conclusive \(\rightarrow\) Landowner can contest in proper court, the RTC designated as Special Agrarian Court
  o The party who disagrees with the decision of the Board/Adjudicator may contest the same by filing an original action with the Special Agrarian Court (SAC) having jurisdiction over the subject property within fifteen (15) days from his receipt of the Board/Adjudicator’s decision.
  o Immediately upon filing with the SAC, the party shall file a Notice of Filing of Original Action with the Board/Adjudicator, together with a certified true copy of the petition filed with the SAC.
Failure to file a Notice of Filing of Original Action or to submit a certified true copy of the petition shall render the decision of the Board/Adjudicator final and executory.

Upon receipt of the Notice of Filing of Original Action or certified true copy of the petition filed with the SAC, no writ of execution shall be issued by the Board/Adjudicator.

COURTSD DISREGARD FORMULA - Factors for determination of just compensation, which the DAR converted into a formula are mandatory and not mere guidelines which the RTC may disregard.

CONSENT OF BENEFICIARY NOT NECESSARY IN DETERMINING JUST COMPENSATION OF LAND OWNER

- Under Sec 18 of CARL, the only parties in valuation of land
  - land owner
  - DAR
  - Land Bank

- Law does not mention participation of farmer beneficiary
- Land Bank cannot refuse to pay valuation set by PARAD simply because consent of farmer beneficiary was not obtained in fixing just compensation.

Section 18. Valuation and Mode of Compensation. – The LBP shall compensate the landowner in such amounts as may be agreed upon by the landowner and the DAR and the LBP, in accordance with the criteria provided for in Sections 16 and 17, and other pertinent provisions hereof, or as may be finally determined by the court, as the just compensation for the land.

The compensation shall be paid on one of the following modes, at the option of the landowner:

- Cash payment, under the following terms and conditions:
  - For lands above fifty (50) hectares, insofar as the excess hectarage is concerned:
  - For lands above twenty-four (24) hectares and up to fifty (50) hectares:
  - For lands twenty-four (24) hectares and below:

- Shares of stock in government-owned or controlled corporations, LBP preferred shares, physical assets or other qualified investments in accordance with guidelines set by the PARC;
- Tax credits which can be used against any tax liability;
- LBP bonds, which shall have the following features:
  - Market interest rates aligned with 91-day treasury bill rates. Ten percent (10%) of the face value of the bonds shall mature every year from the date of issuance until the tenth (10th) year: provided, that should the landowner choose to forego the cash portion, whether in full or in part, he shall be paid correspondingly in LBP bonds;
  - Transferability and negotiability. Such LBP bonds may be used by the landowner, his successors in interest or his assigns, up to the amount of their face value, for any of the following:
    - Acquisition of land or other real properties of the government, including assets under the Asset Privatization Program and other assets foreclosed by government financial institutions in the same province or region where the lands for which the bonds were paid are situated;
    - Acquisition of shares of stock of government-owned or controlled corporations or shares of stocks owned by the government in private corporations;
    - Substitution for surety or bail bonds for the provisional release of accused persons, or performance bonds;
    - Security for loans with any government financial institution, provided the proceeds of the loans...
shall be invested in an economic enterprise, preferably in a small-and medium-scale industry, in the same province or region as the land for which the bonds are paid;

- Payment for various taxes and fees to government; provided, that the use of these bonds for these purposes will be limited to a certain percentage of the outstanding balance of the financial instruments; provided, further, that the PARC shall determine the percentage mentioned above;
- Payment for tuition fees of the immediate family of the original bondholder in government universities, colleges, trade schools, and other institutions;
- Payment for fees of the immediate family of the original bondholder in government hospitals; and
- Such other uses as the PARC may from time to time allow.

- In case of extraordinary inflation, the PARC shall take appropriate measures to protect the economy.

**MODE OF PAYMENT**

- Cash and Financial instruments of the government
  - lands above 50 hectares
    - 25% cash
    - 75% government financial instruments
  - lands above 24 hectares
    - 30% cash
    - 70% government financial instruments
  - lands above 24 hectares and below
    - 35% cash
    - 65% government financial instruments
- Shares of stocks in government owned or controlled corporations, preferred shares of land bank, physical assets or other qualified investments
- Tax credits which can be used against tax liabilities
- Land bank bonds which shall mature every year until the 10th year

**LANDOWNER CANNOT INSIST IN CASH PAYMENT ONLY**

- Landowner cannot insist in cash payment only because it is not sanctioned by the CARL law says just compensation shall be paid partly in cash and remainder in terms of bonds, government financial instruments, shares of stocks in GOCC, tax credits or Land Bank bonds
- Association of Small Landowners vs. Sec of Agrarian reform - rationalized reason why it cannot be cash payment only
  - not ordinary expropriation where only a specific property of relatively limited area is sought to be taken. it is a revolutionary kind of expropriation
  - the smaller the land, the bigger the payment of money because the small landowner will be needing it more than big landowners who can afford bigger balance in bonds and other things of value
  - cash and the other things of value equivalent to the amount of just compensation

**FEATURES OF LAND BANK BONDS**

- 10% of face value of bonds shall mature every year from date of issuance until 10th year
- bonds are transferable and negotiable
- bonds can be used for any of the following
  - acquisition of land or other real properties of government, including
    - assets under the Asset Privatization Program and
    - other assets foreclosed by government financial institutions in the same province or region where the lands for which the bonds were paid are situated
acquisition of land shares of government owned or controlled corporations or shares of sticks owned by government in private corporations

- bail bonds for provisional release of accused persons or performance bonds

- security for loans with government financial institution
  - provided that proceeds of the loans shall be invested in an economic enterprise

- payment for various taxes and fees to government

- payment for tuition fees of immediate family of original bond holder in government universities, colleges, trade schools and other institutions

- payment for fees of immediate family of original bond holder in government hospitals

Section 19. Incentives for Voluntary Offers for Sales. — Landowners, other than banks and other financial institutions, who voluntarily offer their lands for sale shall be entitled to an additional five percent (5%) cash payment.

DOCUMENTARY REQUIREMENTS FOR LANDOWNERS WHO VOLUNTARILY OFFER THEIR AGRICULTURAL LANDS FOR SALE

- Written offer
- Title or proof of ownership if untitled
- Tax declaration
- Approved survey plan

FAILURE TO SUBMIT DOCUMENTARY REQUIREMENTS - land will be subjected to compulsory acquisition

Section 20. Voluntary Land Transfer. — Landowners of agricultural lands subject to acquisition under this Act may enter into a voluntary arrangement for direct transfer of their lands to qualified beneficiaries subject to the following guidelines:

- All notices for voluntary land transfer must be submitted to the DAR within the first year of the implementation of the CARP. Negotiations between the landowners and qualified beneficiaries covering any voluntary land transfer which remain unresolved after one (1) year shall not be recognized and such land shall instead be acquired by the government and transferred pursuant to this Act.

- The terms and conditions of such transfer shall not be less favorable to the transferee than those of the government's standing offer to purchase from the landowner and to resell to the beneficiaries, if such offers have been made and are fully known to both parties.

- The voluntary agreement shall include sanctions for non-compliance by either party and shall be duly recorded and its implementation monitored by the DAR.

VOLUNTARY LAND TRANSFER NO LONGER ALLOWED

- Sec 7 of CARL as amended by RA 9700 allowed voluntary land transfer up to June 30 2009 only

- After June 30 2009, the modes of acquisition are limited only to
  - voluntary offer to sell and
  - compulsory acquisition

Section 21. Payment of Compensation by Beneficiaries Under Voluntary Land Transfer.

- Direct payments in cash or in kind may be by the farmer-beneficiary to the landowner under terms to be mutually agreed upon by both parties, which shall be binding upon them, upon registration with the approval by the DAR. Said approval shall be considered given, unless notice of disapproval is received by the farmer-beneficiary within thirty (30) days from the date of registration.

- In the event they cannot agree on the price of land, the procedure for compulsory acquisition as provided in Section 16 shall apply. The LBP shall extend financing to the beneficiaries for purposes of acquiring the land.

MODE OF PAYMENT IN VOLUNTARY LAND TRANSFERS - unlike compulsory acquisition, farmer beneficiary pays
agreed price of land directly to owner
CHAPTER VII  Land Redistribution

Section 22. Qualified Beneficiaries.

- The lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority:
  - agricultural lessees and share tenants;
  - regular farmworkers;
  - seasonal farmworkers;
  - other farmworkers;
  - actual tillers or occupants of public lands;
  - collectives or cooperatives of the above beneficiaries; and
  - others directly working on the land.

- Provided, however, that the children of landowners who are qualified under Section 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 landholdings shall not be ejected or removed therefrom.

- Beneficiaries under Presidential Decree No. 27 who have culpably sold, disposed of, or abandoned their land are disqualified to become beneficiaries under this Program.

- A basic qualification of a beneficiary shall be his willingness, aptitude, and ability to cultivate and make the land as productive as possible. The DAR shall adopt a system of monitoring the record or performance of each beneficiary, so that any beneficiary guilty of negligence or misuse of the land or any support extended to him shall forfeit his right to continue as such beneficiary. The DAR shall submit periodic reports on the performance of the beneficiaries to the PARC.

- If, due to the landowner's retention rights or to the number of tenants, lessees, or workers on the land, there is not enough land to accommodate any or some of them, they may be granted ownership of other lands available for distribution under this Act, at the option of the beneficiaries.

- Farmers already in place and those not accommodated in the distribution of privately-owned lands will be given preferential rights in the distribution of lands from the public domain.

WHO ARE ELIGIBLE TO BECOME AGRARIAN REFORM BENEFICIARIES

- Must be a landless resident of the same barangay, or same municipality

LANDLESS RESIDENT

- Farmer or tiller who owns less than 3 hectares of land
- agricultural lessees and share tenants
- regular farmworkers
- seasonal farm workers
- other farm workers
- actual tillers or occupants of public lands
- collectives or cooperatives of above beneficiaries
- others directly working on the land

QUALIFICATIONS OF AN AGRARIAN REFORM BENEFICIARY

- Farmer (whether tenant, lessee or worker) must be
  - Filipino citizen
  - Resident of barangay or municipality where landholding is located
  - At least 15 years old at time of identification, screening and selection
  - Willing, able and equipped with aptitude to cultivate and make land productive

SPECIAL QUALIFICATIONS FOR FARM WORKERS IN COMMERCIAL FARMS PLANTATIONS

- if they were already employed as of June 15, 1988 in the landholding covered by the comprehensive agrarian reform law
**AGRARIAN LAW - UNGOS BOOK NOTES**

**MANAGERIAL FARM WORKERS NOT QUALIFIED TO BECOME BENEFICIARIES**
- farm workers holding managerial or supervisory positions as of June 15 1988 are not qualified to become agrarian reform beneficiaries
- however, farm workers promoted to managerial or supervisory position after they were identified, screened and selected will remain to be qualified beneficiaries

**WHO ARE DISQUALIFIED TO BECOME AGRARIAN REFORM BENEFICIARIES** - The following tenants, lessees or farm workers
- Those who do not meet the basic qualifications
- Those who have waived their right to become an agrarian reform beneficiary in exchange for compensation, provided that waiver has not been questioned in proper government entity
- Those who have not paid an aggregate of 3 annual amortizations
- Those who have failed to exercise right of redemption/repurchase within 2 years resulting in foreclosure of mortgage by Land Bank of the Philippines of a previously awarded land
- Those who refused to pay 3 annual amortizations for land acquired through voluntary land transfer or direct payment scheme, resulting in repossession by landowner
- Those who have been dismissed for cause
- Those who have obtained substantially equivalent employment
  - i.e., any employment or profession form which applicant farmer derives income equivalent to income of a regular farm worker at time of identification, screening, and selection of beneficiary
- those who have retired or voluntarily resigned from employment
- those who have misused the land or diverted the financial support services extended by the government
- those who have misrepresented material facts in basic qualifications
- those who have sold, disposed, or abandoned the lands awarded to them by the government
- those who have converted agricultural lands to non agricultural use without prior approval from DAR
- those who have been finally adjudged guilty of forcible entry or unlawful detainer over the property
- those who have violated agrarian reform laws and regulations

SEC. 22-A. **Order of Priority.** - A landholding of a landowner shall be distributed first to qualified beneficiaries under Section 22, subparagraphs (a) and (b) of that same landholding up to a maximum of three (3) hectares each. Only when these beneficiaries have all received three (3) hectares each, shall the remaining portion of the landholding, if any, be distributed to other beneficiaries under Section 22, subparagraphs (c), (d), (e), (f), and (g)."

**ORDER OF DISTRIBUTION**
- Children of landowner enjoy first preference in distribution of landholding. Each child is entitled to 3 hectares if
  - 15 years old
  - actually tilling the land or directly managing the farm
- After the children, 3 hectares each is given to:
  - Agricultural lessees and share tenants
  - Regular farm workers
- remaining portion
  - seasonal farm workers
  - other farm workers
  - actual tillers or occupants of public lands
  - collectives or cooperatives of above beneficiaries
  - others directly working on the land

**Section 23. Distribution Limit.** – No qualified beneficiary may own more than three (3) hectares of agricultural land.
MAXIMUM AREA THAT CAN BE OWNED BY OR AWARDED TO BENEFICIARIES IS 3 HECTARES

- therefore a tenant or farm worker already owns 2 hectares, he can still be awarded 1 hectare
- if particular landholding is not enough to meet then 3 hectare award ceiling for each agricultural lessee or tenant, area to be distributed to them will be based on actual size of tillage by each lessee or tenant
- if landholding is more than enough to accommodate 3 hectare limit for each agricultural lessee or tenant, excess will be distributed to agrarian reform beneficiaries in the following order of priority
  - seasonal farm workers
  - other farm workers
  - actual tillers or occupants of public lands
  - collectives or cooperatives of above beneficiaries
- if not economically feasible and sound to divide the excess to seasonal or other farm workers, following criteria for prioritization shall be observed
  - willingness, aptitude, ability to cultivate and make land productive
  - physical capacity
  - length of service
- if seasonal or other farm workers equally meet the foregoing criteria, priority shall be given to those who have continuously worked on the subject landholding.
  - other farm workers who cannot be accommodated will be put in wait list of potential beneficiaries in other landholdings
- if beneficiaries opt for collective ownership, such farmers cooperative, total area must coincide with total number of members or co owners multiplied by 3 hectare limit

FACTORS TO BE CONSIDERED IN DETERMINING THE SIZE OF LAND TO BE AWARDED

- type of crop
- type of soil
- weather patterns
- other pertinent factors critical for success of beneficiaries

Section 24. Award to Beneficiaries. –

- The rights and responsibilities of the beneficiaries shall commence from their receipt of a duly registered emancipation patent or certificate of land ownership award and their actual physical possession of the awarded land. Such award shall be completed in not more than one hundred eighty (180) days from the date of registration of the title in the name of the Republic of the Philippines. Provided, That the emancipation patents, the certificates of land ownership award, and other titles issued under any agrarian reform program shall be indefeasible and imprescriptible after one (1) year from its registration with the Office of the Registry of Deeds, subject to the conditions, limitations and qualifications of this Act, the property registration decree, and other pertinent laws. The emancipation patents or the certificates of land ownership award being titles brought under the operation of the torrens system, are conferred with the same indefeasibility and security afforded to all titles under the said system, as provided for by Presidential Decree No. 1529, as amended by Republic Act No. 6732.
- It is the ministerial duty of the Registry of Deeds to register the title of the land in the name of the Republic of the Philippines, after the Land Bank of the Philippines (LBP) has certified that the necessary deposit in the name of the landowner constituting full payment in cash or in bond with due notice to the landowner and the registration of the certificate of land ownership award issued to the beneficiaries, and to cancel previous titles pertaining thereto.
- Identified and qualified agrarian reform beneficiaries, based on Section 22 of Republic Act No. 6657, as, amended, shall have usufructuary rights over the awarded land as soon as the DAR takes possession of such land, and
such right shall not be diminished even pending the awarding of the emancipation patent or the certificate of land ownership award.

- All cases involving the cancellation of registered emancipation patents, certificates of land ownership award, and other titles issued under any agrarian reform program are within the exclusive and original jurisdiction of the Secretary of the DAR.”

**TRANSFER OF OWNERSHIP TO THE BENEFICIARIES NOT AUTOMATIC**

- Compulsory acquisition does not mean automatic transfer of ownership of land
- Title and ownership over land can be transferred to beneficiaries only upon full payment of just compensation to land owner.

**WHEN DOES DAR ISSUE CERTIFICATE OF LAND OWNERSHIP AWARD**

- DAR will issue CLOA only upon full payment of amortization by farmer beneficiary
- CLOA becomes basis for issuance in his name of original or transfer certificate of title

**CLOA IS INDEFEASIBLE**

- Titles brought under operation of Torrens system
- Same indefeasibility and security
- CLOAs and other titles issued under agrarian reform program become indefeasible and imprescriptible after 1 year from registration with Office of Registry of Deeds
  - Subject to conditions, limitations and qualifications under CARL, PRD and other laws

**CANCELLATION OF CLOAs** - all cases for cancellation of CLOAs and other titles issued under agrarian reform program - exclusive and original jurisdiction of Sec of DAR

**GROUNDS FOR CANCELLATION OF CLOAs**

- Abandonment of land
- Neglect or misuse of land
- Failure to pay 3 annual amortizations
- Misuse or diversion of financial and support services
- Sale, transfer or conveyance of right to use the land
- Illegal conversion of land

**RIGHTS AND OBLIGTIONS OF BENEFICIARIES COMMENCE** from receipt of duly registered CLOA and actual physical possession of awarded land

- Pending CLOA issuance, the identified and qualified agrarian reform beneficiaries have usufructuary rights over awarded land which DAR has taken possession

**OBLIGATIONS OF AGRARIAN REFORM BENEFICIARIES**

- Exercise due diligence in the use, cultivation and maintenance of land, including improvements thereon
- Pay land bank 30 annual amortizations with 6% interest per annum
  - Amortization will start 1 year from date of registration of CLOA
  - However if actual occupancy of land takes place after CLOA registration, 1 year period shall be reckoned from constructive occupation

**Section 25. Award Ceilings for Beneficiaries.**

- Beneficiaries shall be awarded an area not exceeding three (3) hectares, which may cover a contiguous tract of
land or several parcels of land cumulated up to the prescribed award limits. The determination of the size of the land for distribution shall consider crop type, soil type, weather patterns and other pertinent variables or factors which are deemed critical for the success of the beneficiaries.

- For purposes of this Act, a landless beneficiary is one who owns less than three (3) hectares of agricultural land.
- Whenever appropriate, the DAR shall encourage the agrarian reform beneficiaries to form or join farmers’ cooperatives for purposes of affiliating with existing cooperative banks in their respective provinces or localities, as well as forming blocs of agrarian reform beneficiaries, corporations, and partnerships and joining other farmers’ collective organizations, including irrigators’ associations: Provided, That the agrarian reform beneficiaries shall be assured of corresponding shares in the corporation, seats in the board of directors, and an equitable share in the profit.

- In general, the land awarded to a farmer-beneficiary should be in the form of an individual title, covering one (1) contiguous tract or several parcels of land cumulated up to a maximum of three (3) hectares.
- The beneficiaries may opt for collective ownership, such as co-workers or farmers cooperative or some other form of collective organization and for the issuance of collective ownership titles: Provided, That the total area that may be awarded shall not exceed the total number of co-owners or members of the cooperative or collective organization multiplied by the award limit above prescribed, except in meritorious cases as determined by the PARC.

- The conditions for the issuance of collective titles are as follows:
  - The current farm management system of the land covered by CARP will not be appropriate for individual farming of farm parcels;
  - The farm labor system is specialized, where the farmworkers are organized by functions and not by specific parcels such as spraying, weeding, packing and other similar functions;
  - The potential beneficiaries are currently not farming individual parcels but collectively work on large contiguous areas; and
  - The farm consists of multiple crops being farmed in an integrated manner or includes non-crop production areas that are necessary for the viability of farm operations, such as packing plants, storage areas, dikes, and other similar facilities that cannot be subdivided or assigned to individual farmers.

- For idle and abandoned lands or underdeveloped agricultural lands to be covered by CARP, collective ownership shall be allowed only if the beneficiaries opt for it and there is a clear development plan that would require collective farming or integrated farm operations exhibiting the conditions described above. Otherwise, the land awarded to a farmer-beneficiary should be in the form of an individual title, covering one (1) contiguous tract or several parcels of land cumulated up to a maximum of three (3) hectares.

- In case of collective ownership, title to the property shall be issued in the name of the co-owners or the cooperative or collective organization as the case may be. If the certificates of land ownership award are given to cooperatives then the names of the beneficiaries must also be listed in the same certificate of land ownership award.

- With regard to existing collective certificates of land ownership award, the DAR should immediately undertake the parcelization of said certificates of land ownership award, particularly those that do not exhibit the conditions for collective ownership outlined above. The DAR shall conduct a review and redocumentation of all the collective certificates of land ownership award. The DAR shall prepare a prioritized list of certificates of land ownership award to be parcelized. The parcelization shall commence immediately upon approval of this Act and shall not exceed a period of three (3) years. Only those existing certificates of land ownership award that are collectively farmed or are operated in an integrated manner shall remain as collective."

**INDIVIDUAL TITLES FOR EVERY BENEFICIARY**

- General Rule: Land should be awarded to individual farmer beneficiary and covered by an individual title
- However, if beneficiaries opt for collective ownership, collective ownership title may be issued in name of co-
OWNERS OR COLLECTIVE ORGANIZATION

- Names of beneficiaries should be listed in the same certificate of land ownership award.

CONDITIONS FOR ISSUANCE OF COLLECTIVE TITLES

- Farm management system of land covered is not appropriate for individual farming.
- Farm labor is specialized
  - i.e., where farm workers are organized by functions and not by specific parcels such as spraying, weeding, packing, and other similar functions.
- Beneficiaries are currently not farming individual parcels but collectively work on large contiguous areas.
- Farm consists of multiple crops being farmed in an integrated manner or includes no crop production areas necessary for viability of farm operations
  - Ex. Packing plants, storage areas, dikes, and other similar facilities that cannot be subdivided or assigned to individual farmers.

TITLES MUST INDICATE THAT IT IS AN EP OR CLOA

- Emancipation Patent
- Certificate of Land Ownership Award
- Applies to both title of land awarded and any subsequent transfer title.

Section 26. Payment by Beneficiaries.

- Lands awarded pursuant to this Act shall be paid for by the beneficiaries to the LBP in 30 amortizations at 6% interest per annum.
  - Annual amortization shall start (1) year from the date of the certificate of land ownership award registration.
  - However, if the occupancy took place after the certificate of land ownership award registration, the amortization shall start (1) year from actual occupancy.
  - The payments for the first (3) years after award shall be at reduced amounts as established by the PARC:
    - Provided, that the first (5) annual payments may not be more than (5%) of the value of the annual gross production as established by the DAR.
    - Should the scheduled annual payments after the fifth (5th) year exceed ten percent (10%) of the annual gross production and the failure to produce accordingly is not due to the beneficiary's fault, the LBP shall reduce the interest rate and/or reduce the principal obligation to make the repayment affordable.
- The LBP shall have a lien by way of mortgage on the land awarded to the beneficiary; and this mortgage may be foreclosed by the LBP for non-payment of an aggregate of three (3) annual amortizations. The LBP shall advise the DAR of such proceedings and the latter shall subsequently award the forfeited landholding to other qualified beneficiaries. A beneficiary whose land, as provided herein, has been foreclosed shall thereafter be permanently disqualified from becoming a beneficiary under this Act.

SCHEDULE OF PAYMENT

- Cost of awarded land is payable to Land Bank by beneficiaries in 30 annual amortizations with 6% interest per annum.
- Payment starts 1 year from
  - Date of registration of CLOA or
  - Date of actual occupancy
    - If occupancy took place after registration of CLOA.
BASIS OF AMORTIZATION
- maximum amortization is 5% of annual gross production as established by DAR
- After 5th year, interest rate and/or principal obligation may be reduced by Land Bank to make repayment affordable
  - if due to failure of production, scheduled annual payments exceed 10% of annual gross production
  - failure to produce is not due to beneficiaries fault

EFFECT OF FAILURE TO PAY 3 ANNUAL AMORTIZATIONS
- Land Bank can forfeit landholding and award it to other qualified beneficiaries
- beneficiary whose land has been foreclosed or forfeited will be permanently disqualified from becoming a beneficiary.