



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 5507



Introduced by Representative **GERALDINE B. ROMAN**

EXPLANATORY NOTE

The Regalian Doctrine asserts that all-natural resources belong to the State. With the exception of agricultural lands, all forms of natural resources cannot be alienated. While agricultural lands may be the subject of transfer actions, the exercise of the attributes of ownership over such lands is limited by law. The use of property bears a social function and this is emphatically asserted in the paramount law. Article XIII, Section 4 of the 1987 Constitution of the Republic of the Philippines mandates that the State shall carry out an agrarian reform program 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. The ownership, use, and disposition of agricultural lands is not just a matter of property rights. It goes beyond agricultural productivity or food sufficiency. It is about social justice.

While the Constitutional mandate on agrarian reform is clear, the actions of the Government is not unambiguous.

The agrarian reform program provides for stock distribution as an option to the landowners in lieu of actual land distribution. The practice not only dilutes the concept of an authentic agrarian reform program. It negates it. The farmer beneficiary ends up as a mere stockholder subject to the manipulative control of the governing body of a hacienda corporation. The farmer beneficiary is also vulnerable to the dictates of an agrarian reform cooperative. A cooperative is viewed under the law as enjoying the status of an agrarian reform beneficiary. Thus, there are cooperatives which will argue that expulsion of a member from the cooperative results in the removal of that beneficiary from the program.

The beneficiaries are made to pay for their awarded lands under a thirty-year amortization schedule and subject to a six percent annual interest. The arrangement ignores the continuing need to emancipate the Filipino farmer from the bondage to the soil. It cruelly implies that the Filipino Farmer, after being subjected to centuries of oppression, has not yet paid the price for the land he has tilled. It degrades the agrarian reform program as a mere purchase on installment program. It loses sight of the true essence of the program. It is not a mere transfer of ownership of land subject to a monetary consideration. It is about transformation of the serf to master.

The agrarian reform program has been called a "revolutionary form of expropriation." However, program implementation has been seen subjected to a deadline. This revolution was supposed to adhere to a schedule. Thus, the issuance and service of the Notice of Coverage (NOC) to the landowner, which is the first legal step to cover the landholding, came to a halt on 30 June 2014. This is despite the failure of the Presidential Agrarian Reform Council (PARC) to perform its supposed statutory obligation to craft the blueprint to ensure that the program is fully implemented within the five-year period leading to the deadline. There is a simple explanation for such failure. The PARC was never convened. It was in hiatus from 2006 to 2016.

The full implementation of the Agrarian Reform Program came to a halt with the advent of the 2014 deadline. This is despite the fact that more than sixty thousand hectares of agricultural lands are still to be covered under the program through the issuance of the NOC. This is over and above the agricultural landholdings covering 561,000 hectares which have cases or proceedings under the program prior to the deadline of 30 June 2014. These cases or proceedings are not covered by the said deadline.

In addition to the deadline imposed in the issuance and the service of the NOC which decreased the area available for acquisition and distribution, a large area of agricultural lands has also been shut out of the program because such parcels are currently owned by government agencies and instrumentalities. These parcels of land remain with the government despite the fact that they are no longer being actually, directly, and exclusively used for the public purpose for which such lands have been reserved. There have been several executive orders issued in the past that order the transfer of these agricultural lands to the DAR for acquisition and distribution but to no avail.

The implementation of the Agrarian Reform Program cannot be seen as successful or complete until and unless adequate support services are given to the Agrarian Reform Beneficiary (ARB). However, the support services available to ARBs under the current law is limited to land surveys, titling, access to credit, infrastructures, services related to agrarian reform bonds, research and education and other related forms of assistance. The current law ignores support services which are directly needed by the family. Support under the Family Code is everything that is indispensable for sustenance, dwelling, clothing, medical attendance, education, and transportation. An ARB should also be assisted by the State in ensuring that the needs of the families are immediately or simultaneously addressed as soon as the farmer or farmworker is enrolled under the program. There is reason to believe that a significant number of ARBs resorted to illegally leasing or selling their awarded lands to businessmen or to the original *hacendero* out of the desperate need to raise funds for the support of the family.

The policy on agrarian reform is to encourage the landowner to use the amount received as just compensation from the State as part of his or her capital for an industrial venture. The expected surge in industrialization fueled by the efforts of the landowners to transfer their capital and invest it in other productive pursuits is expected to stimulate national development. In a parallel movement, we see the ARB as the owner of the land he or she tills earning income as a result of his or her efforts to make the awarded land productive. The ARB as a productive member of society becomes a partner of the former landowners in national development.

But this partnership is difficult to achieve. The law fails to provide a definite standard and formula for the determination of the just compensation of the property. The initial and preliminary determination of just compensation due a landowner before the Land Bank of the Philippines (LBP) and the DAR Adjudication Board (DARAB) immediately fails because the award does not even approximate the fair market value of the landholding. The Special Agrarian Reform Courts (SACs) are left to formulate on their own what they deem as just

compensation. Landowners instead opt to elevate the findings of the SAC to the Court of Appeals and/or the Supreme Court. The latest jurisprudence points towards the identification of a common formula for all SACs in the determination of just compensation.

There are success stories in the implementation of the Comprehensive Agrarian Reform Program (CARP). After all, a total of 4.79 million hectares of agricultural lands have been covered and a total of 2.84 million ARBs have received their Emancipation Patents or CLOAs under the Program since the Comprehensive Agrarian Reform Law became effective on 15 June 1988.

The status of the CARP has been viewed as one which has already been terminated as a result of the deadline for the issuance of the NOC. Yet it remains as a constitutionally-mandated program.

Agriculture continues to be one of the weakest links in our economy. A higher incidence of poverty is prevalent in the farming sector particularly among the landless farmers and the farm workers.

Much has been said and done about the agrarian reform program in the Philippines.

Much is still to be said. Much is still to be done.

The call of the times is not to end the Agrarian Reform Program. The challenge of the times is to ensure its continuation as an integral component of our national development and social justice programs. Mindful of the gaps and the inadequacies of the previous manner of program implementation, we commence the second phase of Agrarian Reform.

In view of the foregoing, the passage of this bill is being urgently sought.

A handwritten signature in dark ink, appearing to read "Gerardo B. Román". The signature is fluid and cursive, with the first name "Gerardo" being more prominent and the last name "Román" following in a similar style. There is a small mark above the "n" in "Román".



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AN ACT

INSTITUTING THE SECOND PHASE OF AGRARIAN REFORM IN THE COUNTRY THEREBY COMPLETING THE COVERAGE OF AGRICULTURAL LANDS UNDER THE AGRARIAN REFORM PROGRAM, PROVIDING STATE SUBSIDY IN THE ACQUISITION AND DISTRIBUTION OF AGRICULTURAL LANDS TO AGRARIAN REFORM BENEFICIARIES AND CREATING THE MECHANISMS FOR ITS IMPLEMENTATION AND OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. State Subsidy in the Acquisition and Distribution of Agricultural Lands thereby Implementing Free Land Distribution to Qualified Beneficiaries. The distribution of agricultural lands to qualified beneficiaries which shall be directly and fully subsidized by the State shall comprise the second phase of the agrarian reform program in the country. Agrarian Reform Beneficiaries shall no longer pay any amortization for their awarded lands.

Agrarian Reform Beneficiaries under the previous agrarian reform laws shall benefit from the state subsidy to the extent of the unpaid amortizations and interest charges which are due. Those who have completed payment of the thirty-year amortization schedule and the payment of interest charges shall be given preference in the award of the new package of support services which includes access to credit facilities and automatic qualification to various support services including availments for housing, education, and other loans.

SECTION 2. Resumption of the Coverage of Private Agricultural Lands Under the Comprehensive Agrarian Reform Program. The Department of Agrarian Reform (DAR) shall resume the issuance and service of the Notice of Coverage to all landowners of private agricultural lands whose ownership exceeds the five-hectare ceiling imposed by Section 6 of Republic Act (R.A.) No. 6657, as amended, and which would have been covered under the agrarian reform program were it not for the 30 June 2014 deadline imposed by R.A. No. 9700; Provided, that this Section shall not apply to retention areas of landowners who exercised such right under Presidential Decree No. 27 or other agrarian laws which granted retention areas exceeding five hectares.

Any issue, dispute, or controversy arising from the issuance of the Notice of Coverage shall be resolved by the DAR Secretary.

SECTION 3. Resumption of the Coverage of Unused Government-Owned Lands under the Comprehensive Agrarian Reform Program. The DAR shall issue and serve the "Notice to Proceed with the Acquisition" (NTPA) to all government agencies, departments, bureaus, offices, and instrumentalities which own or are in possession of agricultural lands that are no longer actually, directly, and exclusively used or necessary for the purpose for which such lands have been reserved. All lands of the public domain which are agricultural or arable shall be turned over by the Department of Environment and Natural Resources to the DAR without delay upon issuance and service of the NTPA. Any issue, dispute, or controversy arising from the issuance of the NTPA shall initially undergo conciliation proceedings between the DAR and the concerned agency before a Dispute Resolution Committee created by the Department of Justice. In the event that the settlement is reached, the said agency may file a Petition opposing the coverage before the Secretary of Department of Agrarian Reform.

For the purpose of this Section, a landholding is deemed actually, directly, and exclusively used for the purpose of a government agency, department, bureau, office, or and instrumentality concerned when it is immediately occupied, utilized, and applied for the purpose for which it was reserved or acquired. The land is necessary for the mandate or the purpose of the said department, bureau, office, or instrumentality if the land is indispensable for the attainment of said mandate or purpose which have been reserved in its favor by virtue of a presidential proclamation, executive fiat or legislative grant, or otherwise acquired through other modes of transferring ownership.

SECTION 4. Determination of Just Compensation Due Landowners. The fair market value shall be the value of the land at the time of the taking but the amount to be paid must be the present value of the amount that should have been paid. The amount to be paid must therefore take into consideration inflation, among other pertinent factors. The concept of just compensation in agrarian reform is the same as just compensation in all types of taking. The landowner should be paid the present value of the fair market value of the land at the time of the actual taking of the property. Just compensation is computed at the time of the taking because it replaces the value of the rights to property taken from the owner. This Section supplements the factors to be considered in determining just compensation under Section 17 of R.A. No. 6657, as amended.

For purposes of acquisition under the agrarian reform program, the land value of an agricultural land shall be computed based on its legally permissible and best use at the time of expropriation, taking into consideration inflation and the valuation factors enumerated in Section 17 of R.A. No. 6657, as amended.

The just compensation to the landowner shall be the future value of the land value determined at the time of expropriation, computed at prevailing market rates as of the time of payment, broken down into:

- (a) 30% Cash
- (b) 70% Agrarian Reform Bond with interest aligned with 91-day Treasury Bills rate; 10% of the face value of the bonds shall mature every year from the date of issuance until the 10th year

The breakdown applies regardless of the hectarage of the landholding acquired from the landowner, thereby amending the mode of compensation provided under Section 18 of R.A. No. 6657, as amended.

The just compensation shall be initially determined by the DAR with the technical assistance of the Land Bank of the Philippines. In the event that the amount is rejected by the Landowner, an original action for the determination of the amount of the just compensation may be commenced within one (1) year from receipt by the Landowner of the Notice of the Initial Determination by the DAR before the proper Regional Trial Court designated as Special Agrarian Court.

SECTION 5. Duty of Any Court or Prosecutor to Dismiss Any Case with an Agrarian Dispute and to Automatically Refer the Case to the DAR. The DAR exercises exclusive jurisdiction in cases involving an agrarian dispute which shall refer to controversies involving any of the following:

- a) Tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture.
- b) Dispute concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements.
- c) The 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. (Section 3(d), R.A. No. 6657, As Amended)
- d) Cases when the DAR exercises quasi-judicial power as provided under Section 50 of R.A. No. 6657, As Amended.

SECTION 6. Continuing Determination of the Allowable Ceiling of Ownership of Agricultural Lands. For purposes of future legislation, the Presidential Agrarian Reform Council shall conduct a continuing study to determine the allowable ceiling of ownership for the awarded lands, as well as for the retention areas in each region taking into consideration the peculiar features of the land, the nature of the crops and the manner by which the agricultural activities in the area are being conducted.

SECTION 7. Scope of Exemption Under the Comprehensive Agrarian Reform Program. Landholdings which are exempted from the coverage of the Comprehensive Agrarian Reform Program as provided under Section 10 of R.A. No. 6657, as amended, is supplemented by the inclusion of landholdings which have been reclassified for any type of use that is not agricultural as also exempted from the coverage provided that the landholding has been reclassified before 15 June 1988. Exemption of the landholding from the coverage of the Comprehensive Agrarian Reform Program means that it is no longer subject to the application of any of the provisions of the Agrarian Reform Laws provided that the following conditions are met:

- (a) For lands exempted due to its being used for a public purpose, they shall remain exempted provided that they continue to be actually, directly, and exclusively used and found to be necessary for those uses cited under Section 10 of R.A. No. 6657, as amended. The exemption grant is revoked once said use has ceased or is proven to be non-existent.
- (b) For lands exempted due to having more than 18 degrees slope and being undeveloped, they shall remain exempted provided that they are not agriculturally developed or no agricultural activity exist therein. The exemption grant is revoked once there is agricultural development in the area.
- (c) For lands exempted for having been reclassified as non-agricultural before 15 June 1988, they shall remain exempted provided that they are neither irrigated nor irrigable. The exemption grant is revoked once there is irrigation in the area or it is determined that the area is irrigable as certified by the National Irrigation Administration.

SECTION 8. Scope of Exclusion Under the Comprehensive Agrarian Reform Program.

Landholdings which have been excluded from the Comprehensive Agrarian Reform Program due to such activities as prawn farming, fish farming, aquaculture, livestock, poultry and other similar business undertakings shall be placed under the Comprehensive Agrarian Reform if such activities are no longer the main or dominant activity therein.

SECTION 9. Effects of Exclusion or Exemption Under the Comprehensive Agrarian Reform Program. Landholdings which remain excluded or exempted from the Comprehensive Agrarian Reform Program shall also be exempted from the provisions of agrarian reform cases governing transfer actions, and ownership ceiling.

SECTION 10. Scope of Conversion of Agricultural Lands Under the Comprehensive Agrarian Reform Program. Conversion grant from the DAR shall be secured even if the agricultural landholding to be used for a commercial, residential, or industrial purpose is neither an awarded land nor part of the retention area.

SECTION 11. The Agrarian Reform Cooperatives are not Beneficiaries under the Comprehensive Agrarian Reform Program. Section 22 of R.A. No. 6657, as amended, is hereby amended by deleting paragraph "(f) Collective or cooperatives of the above beneficiaries" thereof.

SECTION 12. Broadened Scope of Support Services to Agrarian Reform Beneficiaries Under the Comprehensive Agrarian Reform Program. In addition to the support services available to the Agrarian Reform Beneficiaries under Section 37 of R.A. No. 6657, as amended, the DAR together with the Presidential Agrarian Reform Council, shall ensure that the Agrarian Reform Beneficiaries shall receive support services and assistance indispensable for the sustenance, dwelling, clothing, medical attendance, education, and transportation of the beneficiary and the immediate members of his or her family. Any form of support services rendered by any banking or financial institution for the benefit of the beneficiary and his or her family is considered a form of support under the agrarian reform program implementation.

SECTION 13. Prohibition of Courts including Special Agrarian Courts to Disrupt CARP Implementation. Section 55 of R.A. No. 6657, As Amended, is hereby further amended by adding Section 55-A to read, as follows:

Section 55-A. EXCEPT FOR THE SUPREME COURT, NO OTHER COURT IN THE PHILIPPINES INCLUDING THOSE COURTS DESIGNATED AS SPECIAL AGRARIAN COURTS, CAN ISSUE ANY PROHIBITIVE OR MANDATORY FORM OF INJUNCTION WHETHER PRELIMINARY OR FINAL, TO AFFECT IN ANY MANNER ANY FUNCTION OF THE DEPARTMENT OF AGRARIAN REFORM OR ANY STAGE OF THE LAND ACQUISITION AND DISTRIBUTION PROCESS.

SECTION 14. Intent is Immaterial in the Crime of Illegal Conversion. Section 73 (c) of R.A. No. 6657, As Amended, is hereby modified, as follows:

“THE CONVERSION OF ANY AGRICULTURAL LAND WHICH IS EITHER IRRIGATED OR IRRIGABLE TO NON-AGRICULTURAL USE WITHOUT APPROVAL FROM THE DAR.”

SECTION 15. Acceptability of Agrarian Reform Titles as Collaterals for Certain Loans. Certificates of Land Ownership Award or Emancipation Patents shall be allowed as collaterals for a loan; provided, that the loan is secured to finance an agricultural project addressing the needs of the beneficiary or to fund the support services for the beneficiary which includes anything indispensable to the sustenance, dwelling, clothing, medical attendance, education, and transportation of the beneficiary or his family.

SECTION 16. Revival of the Congressional Oversight Committee on Agrarian Reform. The Congressional Oversight Committee on Agrarian Reform or COCAR is hereby revived to perform the duties and responsibilities as stated under Sections 26, 27, and 28 of R.A. No. 9700.

SECTION 17. Appropriation of Funds for Land Distribution. Section 63 of R.A. No. 6657, As Amended, is hereby further amended to read as follows:

ADDITIONAL AMOUNTS ARE HEREBY BEING AUTHORIZED TO BE APPROPRIATED IN ORDER TO PROVIDE FUNDS FOR THE ACQUISITION OF PRIVATE AND OTHER AGRICULTURAL LANDS FOR DISTRIBUTION TO THE AGRARIAN REFORM BENEFICIARIES.

SECTION 18. Implementing Rules and Regulations (IRR). The DAR shall, within sixty (60) days from the effectivity of this Act, formulate the necessary Implementing Rules and Regulations (IRR).

For this purpose, the following agencies shall participate in the formulation of the IRR: Department of Environment and Natural Resources, Department of Agriculture, Department of National Defense, Department of Justice, Department of Budget and Management, Department of the Interior and Local Government, Department of Public Works and Highways, Department of Trade and Industry, Department of Finance, Department of Labor and Employment, National Economic and Development Authority, National Irrigation

Administration, Land Bank of the Philippines, Commission on Higher Education, and the National Commission on Indigenous Peoples.

SECTION 19. Agency Support. All other government offices and agencies are directed to render such prompt and necessary assistance, subject to applicable laws, rules and regulations, to fully implement the provisions of this Act.

SECTION 20. Funding. The amount necessary for the initial implementation of this Act shall be charged against sources to be identified by Department of Budget and Management. Thereafter, the funding requirements for the implementation of this Act shall be included in the annual budget of the concerned agencies.

SECTION 21. Repeal. In the event that any provision of this Act or any part hereof is declared invalid, illegal, or unconstitutional, the provisions not thereby affected shall remain in full force and effect.

SECTION 22. Separability. All issuances or parts thereof that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 23. Effectivity. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of national circulation.

Approved.