

What now for Agrarian Reform Implementation in the Duterte Administration?

THE STATUS OF CARP IMPLEMENTATION WITHOUT THE MANDATE TO ISSUE NOTICES OF COVERAGE

KAISAHAN tungo sa Kaunlaran sa Kanayunan at Repormang Pansakahan (KAISAHAN) and the People's Campaign for Agrarian Reform Network, Inc. (AR Now!)

Land is the main driver of economic development in the rural areas. As an economic resource – access, ownership and control over land should be a fundamental right of all men and women. With proper State interventions to secure property rights, smallholder farmers – including women and indigenous peoples, will have the opportunity to achieve food security and overcome poverty. Thus, rural development rests on the State's capacity to redistribute its resources to the marginalized, and provide viable opportunities by which these resources can be sustained.

CARP Coverage and land distribution, expired?

The Comprehensive Agrarian Reform Program (CARP/CARPER law¹), though imperfect, resulted to the improvement of lives and security of land tenure of many agrarian reform beneficiaries that must be further improved and continued. In the 2015 accomplishment report, the Department of Agrarian Reform

(DAR) has distributed a total of 4.724 million hectares to 2.790 million ARBs nationwide. Unfortunately, more than 600,000 hectares remain undistributed today excluding those landholdings that have yet to be issued Notices of Coverage (NOCs). The issuance of NOCs starts of the process of Land Acquisition and Distribution to final transfer of ownership to identified Agrarian Reform Beneficiaries (ARBs).

Last 30 June 2014, the mandate of the DAR to issue Notices of Coverage (NOCs) for lands

intended for distribution under the CARP expired under CARPER or Republic Act (RA) 9700.

This deadline, however, does not indicate the end of agrarian reform implementation. This is expounded by Section 30 on Resolution of Cases of RA 9700, which states that "Any case and/or proceeding involving the implementation of the provisions of RA 6657, as amended, which may remain pending on June 30, 2014 shall be allowed to proceed to its finality and be executed even beyond such date." This was supported by the Department of Justice Opinions 59 and 60 of 2013 which state, "The 30

"...more than 600,000 hectares remain undistributed today excluding those landholdings that have yet to be issued Notices of Coverage (NOCs)."

June 2014 deadline indicated in RA 9700 is *merely directory and not mandatory*, as it simply emphasized the importance and urgency of the implementation

¹ The Comprehensive Agrarian Reform Program or CARP is the program implemented from the passage of the Comprehensive Agrarian Reform Law or R.A. 6657 in 1988 while the CARP Extension with Reforms (CARPER) law or R.A. 9700 was passed in 2008 to extend the implementation of CARP.



Source: The People's Campaign for Agrarian Reform Network, Inc. (AR Now!)

of the Comprehensive Agrarian Reform Program (CARP), ideally within the time frame provided.” Furthermore, Article XIII of the 1987 Constitution guarantees just distribution of agricultural land², support to agriculture,³ and resettlement of farmers and farm workers in the State’s agricultural estates.⁴

If there is a bill on agrarian reform that must be passed into law this 17th Congress, foremost must be a continuation of the DAR’s mandate to issue Notices of Coverage to complete the targets of CARP for Land Acquisition and Distribution. Already filed are House Bills 114 and 3051

and Senate Bills 28 and 1056 to address this current gap in agrarian reform implementation. Aside from the need for continuous coverage under CARP, the Government has yet to complete all land acquisition and distribution targets for agrarian reform estimated at around 600,000 hectares of agricultural land which remain undistributed as of 2016. Many agrarian-related cases are still pending in various judicial and quasi-judicial courts. There is also a need to ensure that agrarian reform beneficiaries (ARBs) will continue to till their land productively, by providing them with access to appropriate and timely support services such as credit, infrastructure and extension activities.

HBs 114 and 3051 need to be enacted for the seamless implementation of the LAD and reaffirms this government’s dedication to fully implementing agrarian reform as mandated by the 1987 Philippine Constitution to undertake the just distribution of all agricultural lands.

Issues

Increasing Erroneous Coverage

The DAR in Negros Occidental province cites the non-passage of the NOC bill as a major factor for the delay and recalibration of their targets. DAR officials say many notices of coverage issued before the June 30, 2014 deadline were defective. After further

² Section 4

³ Section 5

⁴ Section 6

HOUSE BILLS 114 AND 3051

“AN ACT MANDATING THE COMPLETION OF THE LAND ACQUISITION AND DISTRIBUTION (LAD) COMPONENT OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP) PURSUANT TO REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE “COMPREHENSIVE AGRARIAN REFORM LAW”, AS AMENDED

The proposed House Bill seeks to amend RA 9700, which limits the implementation of the provisions of RA 6657, as amended, to landholdings with pending case and/or proceeding as June 30, 2014. HBs 114 and 3051 proposes to give the Department of Agrarian Reform a fresh mandate to continue with the issuance of Notices of Coverage on CARPable areas, a stage in the Land Acquisition and Distribution process of CARP, until completion.

Main Features of the Bill

Section 1. The Land Acquisition and Distribution component of the CARP shall be CONTINUED UNTIL COMPLETION UPON THE EFFECTIVITY OF THIS ACT.

Whereas in the 16th Congress, this was limited to a period of two (2) years from the effectivity of the Act, comments from the DAR and agrarian reform advocates that this should be an ongoing mandate as set by the Constitution, convinced the authors to extend the issuance of NOCs until target agricultural lands are fully covered.

Section 2. Amends Section 30 of RA 9700 (CARP Extension with Reforms Act) stating:

“Section 30. Issuance of Notices of Coverage, acceptance of voluntary offer to sell and resolution of cases and/or proceedings – The DAR shall continue to issue notice of coverage and accept voluntary offers to sell by land owners of agricultural lands covered by Republic Act No. 6657, as amended. Such issuance of Notice of Coverage or acceptance of Voluntary Offer to Sell starts the proceedings in the implementation of the provisions of Republic Act No. 6657, as amended.

Any case and/or proceeding INVOLVING THE IMPLEMENTATION OF THE PROVISIONS OF REPUBLIC ACT NO. 6657, AS AMENDED, OR as initiated by the issuance of Notice of Coverage or acceptance of Voluntary Offer to Sell; OR WITH PETITION FOR COVERAGE, shall be allowed to proceed to its finality AND COMPLETION.

Section 3. Funding for LAD will continue as provided under Section 21, RA 9700

Section 4. Extension of the term of the Congressional Oversight Committee on Agrarian Reform (COCAR)

validation, DAR discovered that there are errors in the technical descriptions of the published NOCs. The discrepancies vary from the title numbers, location of the property and name of the registered landowners.

Among the reasons cited were old titles transferred to smaller landholdings and named after heirs or corporations; some NOCs not properly served to landowners prior to publication; some MAROs had no official documentation of the landowners’ refusal to accept NOCs before publication.

Landowner resistance

There is also a trend of landlords filing a Temporary Restraining Order (TRO) against the Registry of Deeds to annotate the NOC to the land title of the covered property and to register the Certificate of Land Ownership Awards (CLOAs). The lower courts against DAR over CARP implementation apparently use this strategy to circumvent the CARPER provision that prohibits the issuance of a TRO.

“Chop-chop” of titles to justify erroneous NOCs

Some landowners or their heirs resort to subdividing the original lands covered by CARP and have them titled into smaller parcels under the name of the heirs. Hence, the NOC issued for the original title will now be contested by the owners of the smaller parcels of land. This strategy has

LEGISLATIVE UPDATES

HOUSE OF REPRESENTATIVES

Hearings

Two Committee hearings and one Technical Working Group were conducted for the NOC Bill (January 18, March 1 and May 3, 2017).

Issues raised

Inconsistent DAR data

- DAR mentioned during the last committee hearing that there are only about 24,000 hectares that have yet to be issued NOC. This figure is not consistent with the earlier submitted figure of 69,000 hectares (data as of December 2016).
- It was not clear whether this figure included lands with NOC

as of June 2014 but now declared as erroneously covered. There is still no administrative policy directive from the DAR Central office on how to deal with NOC issuance issues since it expired last June 30, 2014.

- Are lands covered under AO 11 Series of 2014, which declared that no NOC is needed for cases won at the Regional Director level, not affected by this policy gap?

Legislators comments

- Rep. Gwen Garcia of Cebu insisted that the June 30, 2014 expiry was a sunset provision, therefore, the period for deliberation for the expiring provision has passed already.
- Rep. Arnulfo Teves, meanwhile, insists that there should be a review

of the land valuation provision in the CARP to be more favorable to landowners.

SENATE

Bills filed

Two bills were filed by Sen. Gringo Honasan (Senate Bill 28) and Sen. Risa Hontiveros (Senate Bill 1056).

Senate Standstill

The Senate Agrarian Reform Committee has not yet scheduled the NOC bills for deliberation since July 2016. The committee was formerly headed by Sen. Alan Peter Cayetano but was turned over to Sen. Cynthia Villar, who is currently the committee's acting chair.

been more commonly referred to as 'chop-chop' titles.

DAR under the Duterte administration

On the new DAR leadership under Secretary Rafael Mariano, although there are many pro farmer pronouncements, these are not translated into immediate resolution of many land issues favorable to farmers and into clear-cut and long-term policies to fast-track CARP implementation. There has been suspension of the implementation of some administrative orders (e.g., AO on Agribusiness Venture

Arrangements or AVA, AO 6 2016 on the guidelines for the issuance of DAR clearance to authorize the transfer of ownership of agricultural lands) but immediate action must be done to protect agrarian reform gains.

Farmers cannot afford to wait much longer. The NOC issuance bills have been filed in both Houses of Congress but deliberations are at a standstill. Meanwhile, local DAR officials are at a loss on how to proceed in covering CARP targets without a new law. ○