

Enabling factors of land conversion in the Philippines

Taking into the national context, the following presents the enabling factors of land conversion in the Philippines – recognizing that these factors play an important role in further facilitating the increasingly alarming concerns of land conversion in every part of the country.

Policies that enable continued conversion

Department of Agrarian Reform Administrative Orders No. 1, series of 2019 and No. 6, series of 2019

When the Duterte administration took power in 2016, there was hope that pro-farmer policies will be implemented by DAR given the appointment of Rafael “Ka Paeng” Mariano as Secretary of the said government agency. And indeed, Mariano did not wait long before announcing that he would pursue a two-year ban on the conversion of agricultural land and also review all land conversion agreements from the time the agrarian reform law was passed by the Corazon Aquino administration in 1988.

Apparently, these moves did not sit well with legislators – many of whom own large tracts of land or are real estate developers themselves – thus his appointment was rejected.

In came current Agrarian Reform Secretary John Rualo Castriciones, who not only dropped the move to ban conversion for two years, but did the exact opposite and issued a policy in 2019 to shorten the conversion process, supposedly to make it easier to build socialized housing for low-income Filipinos. Under his watch, he issued Administrative Orders (AOs) 1 series of 2019⁵ and 6 series of 2019.⁶

As Castriciones said during his confirmation hearing, land conversion was allowed under the law and “must be properly implemented.”

Indeed, it has become a policy of the current administration to pursue land conversion, following the order by President Duterte in early 2019 to create a task force to, among others, speed up the conversion of agricultural lands to residential, commercial, and industrial uses, cutting the process from 24 months to an alarming 30 days.

Following the AOs, the DAR formed the Inter-Agency Special Task Force on Land Use Conversion comprised of agencies that handle land conversion applications. In addition to the DAR, the other participating agencies include the Department of the Interior and Local Government, Department of Agriculture, Housing and Land Use Regulatory Board, National Housing Authority, and the Housing and Urban Development Coordination Council. The Department of Energy is also involved when the land conversion is for the purpose of energy production.

“In pursuing this endeavor, it is foremost in our plans that each step [is] environmentally viable and socially feasible. It should also protect tillers’ rights and ensure food security,” Castriciones said in the statement.

⁵ Streamlining the Processing of Applications for Land Use Conversion Under DAR Administrative Order No. 1, Series of 2002

⁶ Creation of a Collegial Body on Land Use Conversion and Exemption/Exclusion from CARP Coverage

Rice Tariffication Law of 2019 (RA 11203)

Moreover, the enactment of the Rice Tariffication Law in 2019 led to lower returns for local farmers, further driving them to consider selling their lands to be converted into other purposes. The mentioned law liberalized rice trade, thus allowing easier entry of foreign-grown rice into the domestic market and pulling the prices down for locally produced rice.

Credit support falling short for farmers but flourishing for the real estate sector

Access to credit has long been cited as one of the factors behind the dismal productivity levels, such that it has become difficult for farmers to rise from poverty. Yet while investments, support services, and incentives to promote agriculture have been wanting, investments in property development have been surging. Farmers are seen by banks as a high credit risk, meaning they are seen as having a high probability of being unable to pay back their loans. This is why banks have been reluctant to lend to the agriculture sector but are more than happy to lend to those who want to purchase or develop property for commercial use.

Take for example the share of real estate lending by the banking system. Just last August 2020, the Bangko Sentral ng Pilipinas (BSP) decided to raise the limit on the universal and commercial banks' lending to the real estate sector to 25 percent of their portfolio from 20 percent (Chipongian, 2020). This means an additional P1.2 trillion injected to real estate activities, including residential, commercial, and industrial property development. As of end-June 2020, the banks' lending to real estate activities amounted to P1.719 trillion, higher than the same time in 2019 of P1.471 trillion, based on BSP data.

But at the same time, Philippine banks continued to fall short of their mandated loan thresholds for agriculture and agrarian reform. Under the Agri-Agra Reform Credit Act of 2009 (RA 10000), all banking institutions (government or private) are mandated to allocate 25 percent of their total loan portfolio to the agriculture and fisheries -- 10 percent for the agrarian reform credit and 15 percent to other agricultural credit. Yet in 2019, BSP reported that loans extended by the banks to the agriculture sector (amounting to around P733 billion), was 11.8 percent only of the total portfolio.

In 2019, monetary Board member Bruce Tolentino had mentioned that fines collected by BSP from banks that fail to comply with the Agri-Agra Law's mandated allocations has reached more than P6 billion in the two prior years, mentioning that "Many of the banks prefer to pay the penalty rather than actually lend to farmers because farmers are poor credit risks, so they pay" (Agcaoili, 2019).

Data from the Agricultural Credit Policy Council (ACPC) further reveal that the credit gap in the agriculture sector was at P367 billion in 2016 (Agcaoili, 2019). The figures show that the 2.9 percent of total loans allocated for agriculture, fisheries, and forestry, fall far behind the allocations for consumer loans (17.5 percent) and real estate loans (19.9 percent).

Non-passage of proposed laws to stop rampant and illegal land conversion

House Bill 7115 (An Act Including the Conversion or Causing the Conversion of Irrigated or Irrigable Lands As a Prohibited Act and Imposing Its Corresponding Penalty Amending for the Purpose Republic Act No. 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988)

The bill that was pushed by former House Speaker Pantaleon Alvarez passed on second reading in 2018 aims to address threats to food security in the country by prohibiting the conversion of irrigated and irrigable lands in the country.

Box 6. Republic Act (RA) 10000 or the Agri-Agra Reform Credit Act

When the 10,000th law was signed in 2009, the government intended to pursue equal access to opportunities for farmers and fishermen, in an effort to promote rural development. The spirit of the law is on enhancing access of the agricultural sector to financial services and programs that increase market efficiency and promote the modernization of the farm sector.

The mandated lending to agriculture and agrarian reform requires banks to allocate 25 percent of their total loan portfolio to the two sectors — 10 percent for the agrarian reform credit and 15 percent to other agricultural credit.

The decade-old law, however, has failed to steer the target level of bank funds to the farm sector. In end-September 2018, universal and commercial banks' compliance to the 10-percent required lending to the agrarian reform sector hit 0.79 percent; their compliance to the 15-percent required lending to the agricultural sector reached only 12.95 percent.

The thrift banking sector follows the universal and commercial banks' trend, with a 1.2-percent compliance rate against the 10-percent mandate for the agrarian reform sector and 6.19 percent as against the 15-percent mandate for the agricultural sector.

Even rural and cooperative banks — whose major market are composed of farmers and fishermen — are finding it increasingly difficult to comply with the mandatory lending to the agrarian reform and agricultural sector, data from the Bangko Sentral ng Pilipinas (BSP) showed.

Five-year data trend from the BSP showed that while rural and cooperative banks are still the only banking group that is able to comply with the Agri-Agra lending quotas, their share in this sector has been shrinking over the years.

This is despite the crucial role of agriculture in a country's overall development.

Data from the BSP also showed that the non-performing loan (NPL) ratio of agricultural loans has actually been decreasing along the overall decline in NPLs of the whole banking industry. From an NPL ratio of four (4) percent in 2014, the NPL ratio of Agri-Agra loans dropped to 2.78 percent in 2018 as end-September 2018.

However, this is still higher than the NPL ratio of the banking industry, which posted a ratio of 2.3 percent in 2014, 1.7 percent in 2017, and between 1.83 percent and 1.87 percent in 2018.

But even, not by so much that to justify the banks' seeming stubborn reluctance to lend to the agriculture and agrarian reform sectors that contribute greatly to poverty reduction as the potential beneficiaries are among the poorest in the country. □

To be penalized are, among others, any person who directly participates in the conversion of irrigated and irrigable land, who induces the landowner or farmworker in the conversion, who benefits from the conversion of the irrigated or irrigable land.

Irrigated land is defined in the bill as “lands serviced by natural irrigation or irrigation facilities, as delineated by the Department of Agriculture [DA] or the National Irrigation Administration [NIA], which includes lands where water is not readily available as existing irrigation facilities need rehabilitation or upgrading, or where irrigation water is not available year-round.”

Irrigable lands, meanwhile, are those “suitable for the conduct of agricultural activities which require irrigation and display physical features justifying the operation of an irrigation system.”

Senate Bill 256 or the Agricultural Land Conversion Ban Act

Alarmed by the very real possibility that food security would be heavily compromised by ever-shrinking farmlands due to wholesale conversion of prime agricultural land, measures are being pushed in Congress to put a halt to the unbridled conversion of agricultural land into residential, commercial, industrial, and other non-agricultural uses, a process that is prone to corruption.

In 2019, Senator Francis Pangilinan filed Senate Bill 256 or the Agricultural Land Conversion Ban Act that seeks to put a stop to the transformation of farmlands into other uses to ensure that the Philippines can produce food to feed its own people.

“This measure aims to protect farmlands for which government already spent to irrigate. This is also critical for food security in the country. Normally, prime agricultural lands are being targeted for conversion,” Pangilinan said.

In a Press Release of the Senate of the Philippines in August 2019, Senator Pangilinan cited that Luzon suffers most from massive land conversion, making up 80.6 percent of the entire country’s approved land conversions. This is followed by Mindanao with 11.6 percent and Visayas with 7.8 percent.

“Since CALABAZON and Central Luzon are producers of big volumes of *palay* and other crops, these conversions seriously threaten food sufficiency and the sustainability of our agricultural economy,” Pangilinan said in the explanatory note.

The bill seeks to amend Section 20 of the Local Government Code (LGC), requiring additional approval from the Departments of Agriculture (DA), Agrarian Reform (DAR), and Environment and Natural Resources (DENR), as well as local government units (LGUs) before land reclassification and conversion.

Under the bill, conversion of agricultural lands requires certification from DA indicating that such lands are not included among those classified for conversion or reclassification and that the land has ceased to be economically feasible for agricultural purposes.

For DAR, lands to be converted should not be programmed for distribution to agrarian reform beneficiaries while for DENR, the proposed reclassification should be ecologically sound.

The proposed bill also provided that “all irrigated and irrigable agricultural lands planted but not limited to rice, corn, sugar, coconut, vegetables and fruit trees... shall not be converted into non-agricultural uses”, taking into consideration that the Philippines needs whatever land is left to continuously and adequately feed its people.

The Proposed National Land Use Act (NLUA)

The need to have such a land use policy in place, however, has never been more urgent due to pressures from a growing population and the country's economic growth policies.

As said in a December 2014 Policy Brief by the Senate Economic Planning Office (SEPO), prime agricultural lands tend to have the same characteristics that would also make them prime lands for urban development.

“Because agriculture is almost always the least favored open when compared economically with major land developments, prime agricultural lands are very much prone to agricultural land use conversion,” the brief said.

Thus, the need for a National Land Use Act to protect “prime agricultural lands,” defined as highly productive farmlands, very fertile and highly suitable for growing the country's major food crops such as rice and corn.

The proposed NLUA specified that all lands subject to CARP, including those lands covered under the notice of compulsory acquisition/voluntary offer to sell, should be protected from conversion pending the distribution and installation of farmer-beneficiaries.

The policy briefing said that this also aligns with the provisions of the CARPER Law, which allows land use conversion after the lapse of five years from award only when: 1) the land ceases to be economically feasible for agriculture; or, 2) the locality has become urbanized and the land will have a greater economic value for other purposes.

It is here where the contention lies as certifications to indicate that the land is no longer “economically feasible” or that the property will be better used for other purposes instead of agriculture can be easily secured, thus the proposed more stringent guidelines under bills proposing bans to conversion.

Plus, the policy brief also noted the valid point that agrarian reform lands are “prime” and thus exempted from conversion to the beneficiaries, though not necessarily in the eyes of the bureaucracy that will rather convert the land for property development, for example. This then demands a proper definition of the term “prime agricultural lands” that warrants absolute prohibition from conversion and reclassification, given the heated debates surrounding the national land use policy.

“Since implementing prohibitions on agricultural land use conversion will affect the expansion of urban areas where majority of the population live, and where most jobs are generated, a stringent set of criteria on identifying prime agricultural lands must be developed,” the brief said.

In the House Bill version filed Representative Kaka Bag-ao during the 17th Congress, prime agricultural lands are those that cover:

- all contiguous irrigated areas and irrigable lands already covered by irrigation projects;
- all alluvial plan lands highly suitable for agriculture whether irrigated or not that have been identified to satisfy the country's needs for food self-sufficiency and security;
- agro-industrial croplands or lands presently planted and suitable to industrial and high-value crops; and,
- highlands, or areas located at an elevation of 500 meters or above and have the potential for growing semi-temperature and high-value crops outside of declared permanent forestlands and protections forests, and are not located in ecologically-fragile and environmentally-critical areas.

However, the contentious issue raised by the housing sector, that impede the passage of the NLUA for years, points towards the bill constraining the availability of land for housing and urban use due to its “catch-all” definition of prime agricultural lands.

Intending to address the said concern, the National Land Use Committee (NLUC) of the National Economic and Development Authority (NEDA) drafted a version where, “in line with the principle that balances food security with the economic efficiency of higher-density uses, land use conversion may be allowed when the land ceases to be economically feasible and sound for agricultural purposes, or when the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes” (Sombilla, 2019). The definition of “prime agricultural land” proposed for protection under the National Land Use Council (NLUC) version of NLUA, is, therefore, narrowed down to areas that are covered by the Strategic Agriculture and Fisheries Development Zones or SAFDZs.⁷

Box 7. Housing backlog vs. housing priorities in the Philippines

According to the Department of Human Settlements and Urban Development (DHSUD) Secretary Eduardo del Rosario, the housing need from 2017 to 2020 is about 6.5 million. To close this housing gap, the “government needs to build 250,000 houses a year. Currently, however, the housing sector can only build 203,000 to 205,000 units annually between 2016 and 2019” (statement by DSHUD Secretary in Business Mirror, 2020).

Housing backlogs are accumulation of several years of failures to respond to this problem by the government and the private sector – one partly being the State spending less than 0.1 percent of the GDP for housing; and other factors including weak monitoring mechanisms, rising resettlement and administrative cost, unreliable poverty data, and selfish interventions of public officials. The housing and real estate developers constantly blamed the housing failures on the lack of lands allocated for housing development and have further claimed that the protection of agricultural lands from conversion leave little lands available for settlements including housing, infrastructure, tourism, real estate development, and other non-agricultural development (Flores-Obanil, 2015).

However, with the obvious rampant expansion of residential subdivisions in Metro Manila and especially in its adjacent provinces, they would seemingly suffice the need for housing. According to Flores-Obanil (2015), this observation not addressing the housing issue may be explained by the fact that real estate developers are prioritizing the construction of medium- and high-cost housing, leaving high deficits for available socialized, economic, and low-cost housings.

In a 2016 to 2030 data by the Philippine Statistics Authority, the demands for socialized and economic housings are at more than 1.3 million and 2.5 million. On the other hand, the demands for medium- and high-cost housings are merely at around 78 and 11 thousand demands, respectively. □

At present, the Executive, headed by the National Economic Development Authority (NEDA), is crafting an executive order version of the land use bill based on the NLUC version of NLUA.

⁷ SAFDZ refers to the areas within the Network of Protected Areas for Agricultural and Agro-industrial Development (NPAAAD) identified for production, agro-processing and marketing activities to help develop and modernize, with the support of government, the agriculture and fisheries sectors in an environmentally and socio-culturally sound manner.