

Positive developments and other opportunities that may be pursued at the national level

Review of the Proposed DAR-DOJ Cooperation in the Implementation of the Agrarian Reform Program

There were discussions in 2019 on a proposed Joint Administrative Order between DAR and the DOJ on the implementation of agrarian reform program that was being pushed as it was felt that continuing collaboration and coordination between the DAR and the DOJ was indispensable to the prosecution of offenses resulting from acts or omissions that obstruct the successful implementation of the Comprehensive Agrarian Reform Program.

One of the key provisions of the proposed JAO is the creation of a Provincial Task Force on Illegal Conversion that will, among others, commence the proper criminal complaints against those alleged with the crime of illegal or premature conversion and ensure the conviction or proper adequate punishment for the guilty parties.

The Task Force will also coordinate with LGUs to monitor land use activities; identify activities that constitute illegal or premature conversion and identify harassment actions against farmers, farmworkers, or tenants.

The draft JAO also called for the creation of a National Task Force on Illegal Conversion that will monitor the activities and coordinate efforts of the provincial task forces. The National Task Force that will be co-chaired by the Secretary of Agrarian Reform and Secretary of Justice will also be tasked to secure the cooperation of other CARP implementing agencies to achieve a whole-of-government approach in preventing illegal and premature conversion.

Implementation of sustainability reporting guidelines for publicly listed companies, financial sector

In 2019, the Securities and Exchange Commission issued a Memorandum Circular No. 4, requiring publicly listed companies to submit an annual sustainability report together with their annual report that will spell out how they invest in sustainability efforts in accordance with the Sustainability Development Goals of the UN. The circular, outlined information that companies will have to share with the public that spans their nonfinancial performance across the economic, environmental, and social aspects of their organizations.

Information that is supposed to be disclosed include investment flows into the national economy, such as in communities as well as their practices of procurement, which may include land acquisition. The SEC has adopted a “comply or explain” approach in the implementation of the rule for the first three years, or until 2022, during which there will be no penalty for failing to provide required material explanation if they can provide reasonable explanations. But given the pandemic, this period of more relaxed implementation of the law may be extended.

The Philippine Stock Exchange has required that the sustainability reports be made part of required disclosure requirements, opening an avenue for civil society organizations to press at least the listed companies to disclose loans that flow into private companies that may be converting land through questionable means.

As it is, annual reports and continuing disclosure requirements do not specify the individual loans extended by the financial institutions, and further inquiry is stopped by the data privacy and bank secrecy laws. The BSP took its own major step toward meeting the SDGs by issuing Circular 1085 series of 2020 in April 2020 that establishes the Sustainable Finance Framework. This is in recognition of the fact that climate change and other environmental and social risks could pose financial stability concerns because of their implications on banks' operations and financial interest.

The BSP said that it recognizes “the critical role” of the financial industry in pursuing sustainable growth “by enabling environmentally and socially responsible business decisions.”

The framework as spelled out currently does not make direct mention of rampant land conversion as a key business risk, but financial institutions could be made aware of the dire implications on food security, the consequences of which are already being seen through rising costs of basic commodities.

Reforms in the Agri-Agra Law

The BSP, along with the Departments of Agriculture and Agrarian Reform recently approved amendments to the implementing rules and regulations of the Agri-Agra Reform Credit Act, which they say will mean improved access to financing for the agriculture, fisheries, and agrarian reform sectors. “The amendments to the Agri-Agra rules are the product of the concerted efforts of the DA, DAR, and the BSP to mobilize bank sector financing towards the agrarian reform, fisheries and agricultural sector by addressing challenges identified in the operationalization of the law,” BSP Governor Benjamin Diokno said in a 19 March 2021 statement.

The amendments include expanding the eligible modes for compliance with the 10-percent agrarian reform credit requirement by including loans to members of agrarian reform households and financing of activities that generally benefit agrarian reform beneficiaries, their households, as well as their communities.

Recommendations

Based from the demands of the affected farmers and inputs provided by CSOs and farmer organizations during an online focus group discussion organized by ANGOC, the following recommendations are thus forwarded:

In relation to the Bulacan cases

- The farmers of Brgy. Sta. Barbara of Baliuag, Bulacan who have valiantly continued to press their claim over the land where they had raised their families recommend, among others, that legal services for farmers be strengthened, either from professional or alternative law groups. They related that farmers are usually up against powerful and deep-pocketed landowners and thus will need strong support from the legal profession. Unfortunately, such services are beyond the reach of most farmers, prompting many to just give up their claim and accept any compromise agreement. With the assurance that quality services will be in place, then the farmers will be in a better and stronger position to pursue their rightful claim over their land.
- It is also recommended that civil society support groups and legal support groups conduct a dialogue with the Department of Agrarian Reform (DAR) Regional and Provincial Offices to discuss the Sta. Barbara case and explore actions for the halting of illegal conversion activities on the subject landholding through:

- ⇒ Issuance by the DAR of a Cease-and-Desist order or other orders/resolutions.
- ⇒ Filing of illegal conversion and other cases against the owners/claimants.