

Exploitation of legal loopholes afforded by agrarian reform laws

The case of Plaridel, Bulacan case presents a situation where prime agricultural lands are being converted into subdivisions developed by a real estate developer through formal processes. There are also circumstances where the real estate developer turns off the irrigation pipe then pours massive amounts of soil on the farmland to pass it off as being idle and no longer used for agriculture – making the land applicable for land conversion.

Less earnings from rice farming

Due to decreasing volume of rice production and rice farming income in Plaridel, Bulacan, farmers are forced to sell their lands to the private developers who take advantage of their situation and offer high selling prices to their ricelands. This results to rampant selling of agricultural lands in the area.

The situation of Bulacan epitomizes the dilemma of many urban fringes: the delicate balancing of interests of urban and rural components. The province needs to support its growing population's need for housing and the province's trajectory of urbanization, while ensuring that rural dwellers have secured livelihoods and are able to contribute enough food for rest of the country.

Unfortunately, conversion of land utilized for cultivating staples is irreversible. While technology provides more flexibility in the utilization of land for settlements, the same cannot be said for the use of land for agricultural production. In the case of the latter, the availability of land remains the most crucial element.

Two Case Stories of Land Conversion in Bulacan, Philippines

CASE 1: The case of Sta. Barbara farmers in Baliuag, Bulacan

Their case began in 1973 when the rice farmers were granted Certificates of Land Transfer (CLTs) pursuant to Presidential Decree 27 issued in 1972 that directed the “emancipation of tenants from the bondage of the soil,” thus mandating the transfer to them of the ownership of the land that they till.

According to Paragos-Pilipinas, the original copies of the CLTs, were taken by Alfredo Peralta and Celing de Guzman, the *encarnados* or representatives of landowner Veronica Gonzales, immediately after these were awarded to the rice farmers. These certificates have never been turned over to the farmers.

Worse, the farmers were not told by DAR that they should start paying their dues to the Land Bank of the Philippines (LBP) and instead continued to pay rent to the *encarnados*. They only started paying the LBP in 1990 and most of them have finished paying their amortizations in 2008.

However, because of their lack of knowledge on the law and procedures, they were unable to get a Certificate of Full Payment and consequently were unable to request DAR to issue their Emancipation Patents (EPs).

This opened the door for landowner Veronica Gonzales to file an ejectment case against the farmers in 2002 on grounds that her landholding was exempt from the coverage of PD 27 of 1972 (which covers land and corn farms) because the 57-hectare property had already been transferred to different persons and the ceiling for coverage was no longer applicable.

Initially, the farmers seemed on the verge of enforcing their legal claim as on 30 March 2004, the Central Luzon Office of DAR generated EPs ready for registration with the Register of Deeds (ROD) in Guiginto, Bulacan.

The registration was refused, however, because of the pending case of Veronica Gonzales, who steadfastly refused to recognize the farmers' legal claim over the property they have been tilling for decades.

The rice farmers' fortunes took a turn for the worse in 2018 when the Regional Agrarian Reform Adjudicator of Central Luzon ruled against the farmers of Sta. Barbara, leading to the painful demolition of their homes and the confiscation of their harvest.

But the demolition and the eviction of the farmers should not have happened since the demolition order was based merely on fabrications.

The strongest basis for the decision to evict was the supposed 18 December 1992 exemption order issued by then-DAR Regional Director Antonio M. Nuesa, stating that the landholdings of Veronica Gonzales et al. were not to be covered by the Comprehensive Agrarian Reform Program (CARP), given that the landholdings are within the retention right of the 18 co-owners. Thus, the emancipation patents should be cancelled. This claim was backed by the Court of Appeals and eventually by the Supreme Court, which supposedly rendered the farmers' claim moot.

However, a 2003 certification from the records officer of the regional DAR office showed that no such exemption order exists. As stated in the 28 May 2018 order by Regional Director Homer Tobias, "it is apparent that the sole reason why the CARP coverage of the subject landholding was not favored because of that Exemption Order. It is apparent, too, that upon verifications made, it turned out that there is no copy, original or duplicate, on file with the records of this Office that allegedly issued the said Exemption Order." Thus, he ruled that because of that, the earlier directive to proceed with the coverage "is more equitable" under the circumstances.

The 28 May 2018 order granted the petition filed by Cecilia Maniego, Renato Natividad, Edilberto Natividad, Roberto Bernardo, Juanito Fajardo, Mario Pacheco, Rodolfo Dimaapi, Alberto Enriquez, Benigno Cabingao, Flordeliza Galvez, Marciano Mananghaya, and Faustino Mananghaya "for the full implementation of CARP coverage" involving the concerned landholdings with a total area of 57.7626 hectares at Barangay Sta. Barbara, Baliuag, Bulacan.

The farmers were ecstatic over the decision as it represented a rare legal victory for the farmers who have been battling for ownership of the property for close to 50 years.

Their elation was short-lived, however, as the DAR Regional Office issued a different order on 14 February 2019, withdrawing the 28 May 2018 order and setting aside the Certificate of Finality of 02 October 2018.

The Provincial Agrarian Reform Officer also declined to implement agrarian reform over the land area in question, citing a 2004 decision by the Court of Appeals that prevented DAR from covering the landholdings under CARP, since the latter takes legal precedence over the Regional DAR's 28 May 2018 order.



Above: Photos taken during a confiscation of Sta. Barbara farmers' harvest last November 2018

The farmers immediately filed a motion for reconsideration as a Certificate of Finality had indeed already been issued and so the provincial office has no choice but to implement it. Unfortunately, no action has been taken since then, with the pandemic further slowing down the judicial process. The case continues to drag on, but even with the ownership issue still hanging over the property, the farmers lament that they remain out of the only home they knew for much of their lives and that redevelopment has proceeded. Moreover, illegal structures have been constructed on an irrigation that supplies water to the landholdings under dispute.

Box 3. Damage to tax-funded irrigation structures in Sta. Barbara; help from DOJ sought

In a letter sent to Department of Justice Secretary Menardo Guevarra on 2 October 2020, Paragos Pilipinas head Elvira Baladad detailed how Sta. Barbara Barangay Captain Cesar Basco Chico allowed the erection of structures “on top of the irrigation canal and along the legal easement which are detrimental to the irrigation system and continuous flow of irrigation to the adjoining ricefields located in other *barangays*.”

Photos attached to the letter to Guevarra showed a “People’s Park” constructed on top and across the irrigation canal, and in that canal is an enclosure made of hollow blocks now used as a fishpond. Though the fishpond was eventually removed due to the valid complaints of farmers from several *barangays*, there are still traces it left. The National Irrigation Administration did not take any measures to rehabilitate the damaged portions of the canal.

As if these were not enough, construction of what is claimed to be a quarantine center for COVID-19 patients is ongoing along the legal easement of the irrigation system and in front of the thick fence allegedly being constructed by manufacturing firm Mighty Corporation.

To top it all, Baladad told Guevarra that Chico was constructing a portion of his hotel on top of the irrigation canal and even encroached on the supposed NIA Road. The illegal extension effectively closed the road and prevented the ingress and egress of the residents of Sta. Barbara.

“It is high time that the mandate and jurisdiction for the National Irrigation Administration be studied and if there is a necessity to file an amendment or a new bill to address their police powers (if any) to safeguard the irrigation systems that they have developed and funded by the government with people’s money,” Baladad said. □

In a grim turn of events, the Sta. Barbara farmers’ lawyer Atty. Anselmo “Sato” Carlos and his aide were killed during an ambush by unidentified gunmen last 28 January 2020. As of writing, the farmers have not yet found a new lawyer to assist them with their claims.

The fact that land conversion continues despite supposed safeguards in the law can be attributed mainly to the exploitation of legal loopholes afforded by agrarian reform laws.

For example, there is a provision in the Comprehensive Agrarian Reform Law for land to be converted from agricultural to non-agricultural use after the land is awarded to the farmer-beneficiaries, if the land has either ceased to be economically feasible for agricultural use or if that the area has become urbanized, and the land now has greater economic value for non-agriculture use.

The final decision on the conversion, however, lies with the DAR, which then may work at cross purposes as it is also in the position to redistribute land to farmer-tillers, especially private land that landowners sometimes desperately hold on to.

Then there is the Local Government Code (LGC) that has empowered local government units (LGUs) to *reclassify* a portion of farmlands for non-agricultural use. With the certification from the local legislative bodies, this is the first step towards land conversion. While *reclassification* is only one step in the conversion process, in many cases, *reclassified* agricultural lands without conversion orders are already being used for non-agricultural purposes.

Box 4. Reclassification vs Conversion of Agricultural Lands in the Philippines

Though sometimes thought to be one and the same, there are marked differences between land reclassification and land use conversion.

In the case of agricultural land, *reclassification* is the act of **identifying** how the land in question will be used for non-agricultural purposes (industrial, commercial, residential). Agricultural lands must first be certified as eligible for reclassification by the Department of Agriculture. Reclassification of lands is done by local government units (LGUs) and is enshrined in the land use plans of the LGUs. Non-agricultural lands may also be reclassified back to lands for agricultural use.

On the other hand, *land use conversion* is the process of actually **changing** the physical use of agricultural land into other uses, as approved by the Department of Agrarian Reform (DAR). DAR is the sole agency that may approve or disapprove conversion of agricultural lands.

It is important to note that reclassification is only a prerequisite for land use conversion. LGU reclassification **does not** automatically result to the conversion of agricultural land. Any unauthorized use of agricultural land for non-agricultural purposes is considered illegal. □

Source : Limbo (2017)

These loopholes thus defeat the very spirit of social justice through agrarian reform and threaten food security at the same time.

According to a 1996 study by Greg Bankoff, the devolution of responsibility and regulatory authority to LGUs had “often tended to favor local elites.”

These elites “have used their influence to back candidates sympathetic toward their interests into positions of power at the local government level. These groups have generally proved to be effective lobbyists in favor of land conversions” (Bankoff, 1996).

What Bankoff concluded from studying land grabbing or land conversion in the provinces of Cavite, Laguna, Batangas, Rizal, and Quezon (CALABARZON) apply to cases in Bulacan, such as that involving the Sta. Barbara farmers.

CASE 2: Rampant land conversion in Plaridel, Bulacan

It is often said that those who have less in life should have more in law. Reality, however, often presents a profoundly different picture, one that unfortunately supports the commonly held belief that the system has been designed – perhaps even rigged – to favor the rich and the powerful. Such is the case in Plaridel, Bulacan where 16 hectares of prime agricultural land were successfully converted into a residential subdivision developed by Lumina Homes, a subsidiary of publicly listed Vista Land Inc., where politicians who are members of the Villar family are significant shareholders.

This occurred despite the stiff opposition of a group of farmers in the area who validly questioned, among others, why the prime agricultural land could be converted into a commercial piece of property when it was irrigated, thus violating the provision that irrigated land should remain agricultural in nature.

The case involves eight parcels of land in Barangay Culianin, Plaridel, Bulacan with a combined area of 12.473 hectares that was sold by a group of landowners in 2012 to Lumina Homes Inc., one of the subsidiaries of Vista Land Inc. that focuses on the socialized housing segment servicing mainly minimum wage earners.

These property owners earlier granted Camella Homes Inc. – now Vista Land Inc. – a special power of attorney authorizing the multi-billion company chaired by former Senator Manuel Villar, or any one of its authorized representatives, to “follow up, obtain clearances, request and applications before the Department of Agrarian Reform (DAR) and other government agencies or offices for the land use conversion and/or exemption from the coverage of the Comprehensive Agrarian Reform Program.”

Box 5. Potential Conflict of Interest in the Senate?

The Villar family is among the wealthiest, most powerful clans in the Philippines. In 2020, Forbes Magazine revealed that Manuel “Manny” Villar is the second richest man in the country, with a net worth of 7.2 billion US dollars as of February 2021. He formerly served as Senator of the Philippines and as a speaker of the Philippines’ House of Representatives. His wife, Cynthia Villar, is an incumbent Senator serving her second term, who ranked first in the senatorial race in 2019. Their son Mark Villar, on the other hand, is the Secretary of the Department of Public Works and Highways.

The family is known to be shareholders of top real estate companies. In 2017, Senator Cynthia Villar declared in her Statement of Assets and Liabilities (SALN), the following business interests and financial connections: Vistaland & Lifescapes, Inc., Fine Properties, Inc., M.B. Villar Company, Inc., Macy’s Inc., Mooncrest Property Development Corp., and Hollinger Holdings Corp.

Senator Villar, however, also chairs the Senate Committees on Agrarian Reform, on Agriculture and Food, and on Environment and Natural Resources. And there is there is concern among civil society and rural stakeholders, that Senator Villar’s business interests which deal with land and property development, collide with her roles as chairperson of the mentioned committees. In many cases, farmers, indigenous people, or fisherfolk come into conflicts with property or infrastructure development that may displace them from their land. Senator Villar could therefore find herself deciding on laws that may affect her businesses, either positively or negatively.

Conflict of interest as described in Section 3 of Republic Act No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, “arises when a public official or employee is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty.” The same law mandates that officials with conflict of interest must resign from positions of power within businesses or divest his/her shareholdings.

Yet even if she personally divests, she still remains as a member of a family deeply entrenched in the real estate business. The public might then come to wonder – how high is public interest in Senator Villar’s list of priorities? □

What followed was the filing of application on 05 October 2013 with the DAR to convert these prime pieces of agricultural property to residential uses, thus paving the way for the construction and development of some 2,000 socialized housing units.

The Housing and Land Use Regulatory Board (HLURB)⁵ itself certified in 2012 that these pieces of property are agricultural in nature, based on the Comprehensive Land Use Plan and Zoning Ordinance of the town of Plaridel in the province of Bulacan, and that indeed, in 2013, it was proposed that these eight parcels of property covering 12.473 hectares be developed into residential subdivision projects.

The conversion process then began with the issuance by the local government of an ordinance reclassifying these pieces of property “from agricultural to residential use.”

The Certificate of Eligibility for Reclassification of Agriculture Lands was then issued by the Department of Agriculture (DA) on 18 October 2013, on grounds that the HLURB had categorized the area as “socialized housing,” that the local government had reclassified the property into residential use, it is not the only remaining food production area in the community and will not hamper the availability of irrigation or productivity of the nearby farmlands.

The DAR conducted an ocular inspection the following month and handily declared that the area was untenanted. It was also at this point that the DAR noted the opposition to the project filed by a group headed by farmer-leader Jimmy Tadeo.

Representing some 49 individuals including neighboring farmers, Tadeo alleged in his opposition that no public hearing was conducted and that there were farmers who objected to the proposed conversion; the development would result in flooding in the area to the detriment of the neighboring farmers; there was feared irregularity in the approval of the *barangay* resolution approving the conversion of the properties. Finally, he said that the pieces of property were fully irrigated thus not to be converted under Republic Act 9700 or Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of All Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of the Comprehensive Agrarian Reform Law of 1988, or more commonly known as CARPER.

However, the Villar group was adamant in pursuing the project involving some 2,000 units in the combined area covered by the case. It cited a ready market since the property was near the Bulacan Industrial Estate where there were many workers in factories needing low-cost housing. And in response to the allegations, the hired consultants countered that a public hearing had been conducted and that nobody objected to the proposed conversion. It also attached government certifications stating that the properties were no longer used for agriculture; adequate drainage facilities will be placed and that there is no ground to support the fear that the intended project will deny other parcels of land of water.

It also said that the resolution was a collective and independent act of the *Sangguniang Barangay* of Culianin and has the presumption of regularity. Further, it cited that the area, although formerly planted with rice, has not been cultivated for more than three years thus can no longer be strictly classified as agricultural.

The case was still being heard but the Villar group could not wait. It went ahead with earth-moving activities in January 2014 using heavy equipment like bulldozers in clear violation of DAR rules, prompting the group of Tadeo to file a “very urgent motion” for the DAR to issue a cease-and-desist order. It even submitted video evidence of the alleged illegal conversion of the property even with the final decision still pending.

After a series of back and forth, the DAR in the end decided – expectedly – in favor of Lumina Homes.

On whether the land is irrigated therefore not eligible for conversion, the DAR said the area was actually “within the periphery” of the irrigated area and is no longer irrigated because farming activity had stopped, thus left idle. “It is clear that conversion may be allowed,” the DAR decision issued on 04 November 2015 by DAR Usec. Luis Meinrado C. Pangulayan said.

⁵ Now merged within the Department of Human Settlements and Urban Development (DHSUD)

That the DAR did agree that “premature conversion” had been committed did not change the decision, with the Villar group getting away with a “stern warning” not to undertake premature conversion, the equivalent of a mere slap on the wrist.

Thus, again, farmers’ concerns were brushed aside with the more moneyed and powerful proponents using the legal system to its full advantage.

Lumina Homes had since been fully developed, further beefing up the coffers of the Villar company. Fears of flooding have also come to pass with farmers in the surrounding areas complaining five years later about their fields being submerged in water during heavy rains, pointing to the real estate development as the sole culprit.



From top: Ka Jimmy Tadeo stands on bulldozed agricultural land (@Inquirer); Lumina Homes-Plaridel (@Lumina Homes)

Lumina Homes is even looking to expand its footprint to include adjoining properties, posing another threat to farmers in the area who often feel helpless and powerless against such influential and deep-pocketed opponents.

With the “permanent conversion” of these pieces of property from agricultural to commercial, the Philippines suffers another reduction in agricultural land, exacerbating already grave concerns over food security.

And the further reduction is expected as conversion of agriculture property to non-commercial use continues unabated in Bulacan, a province just north of the capital of Metro Manila that is enjoying brisk economic activity due to its proximity to the capital.

This means added pressure to convert what remains of the agricultural land in the area as entrepreneurs as well as large corporations are drawn to its property development prospects, not just for residential but for commercial use as well, particularly for manufacturing and logistics.

These companies do not even need to resort to extra-legal means to achieve their ends, they just need to apply the right pressure to secure the necessary forms, certifications and approvals needed to make the land conversion happen.

“Legal land grabbing” was how Mark Joseph Jose, a young farmer from Plaridel, describes what is happening all around him in his town.

Common tactics used to force the conversion include turning off the irrigation pipe then pouring massive amounts of soil on the farmland to pass it off as being idle and no longer used for agriculture. This then makes it easier for the National Irrigation Administration (NIA) to issue a certificate of non-irrigation, one of the documents required to secure the conversion, effectively skirting the law that categorically states that irrigated agricultural land cannot be converted.

Then there are the required certifications from the local government units, from the barangay all the way to the provincial body – all must sign off on the planned conversion to commercial use. It is not difficult to imagine that money must have changed hands to secure the approvals.

And it happens up and down the line, from the NIA to the DA and the DAR.

“*Pag nakumpleto na mga requirements, ‘yun na ‘yun, makakakuha na ng zoning [ordinance] and pwede na ma-convert. Di na nga nila kailangan pumunta dito, basta magbayad lang ng fee ayos na,*” (“Once they have acquired the requirements, that’s it, they will get the zoning [ordinance] and the land can be converted. They do not even need to come here, so long as they pay the necessary fees.”) Jose said.

According to Tadeo, the *barangay* officials themselves were there and witnessed the bulldozing of the disputed property but did not lift a finger even if there was no decision yet from DAR on whether the property had indeed already been converted for commercial use.

On the other hand, Jose noted that at the height of the community quarantines in the second quarter of 2020 to stem the spread of COVID-19, the leveling of agricultural land that had been applied for conversion continued despite supposed restrictions.

Once these applications are approved, their already dire situation can only worsen.

“*Pag matuloy lahat ‘yan, wala nang magiging drainage, magiging swamp na yung bukid,*” (“If all of those [conversions] push through, the drainage will be gone, the farm will turn into a swamp”) said Jose, “*Dati walang ganyang bumabaha, nung bukid pa yan kasi kayang saluhin yung tubig. Ngayon nung naging bahayan na, na-block na, kaya dito na sa amin dumadaan yung tubig.*” (Before, floods do not occur because the farms absorb the water. Now that those have been turned into residential areas, the waterway has been blocked, so the floods run through our area.)

The revenue gain from selling property to developers is compelling, indeed. Because of the proximity of Plaridel to the National Capital Region (NCR), especially with the opening of the bypass road that has made it easier for goods to travel from the agricultural and trading centers in Nueva Ecija and further up to Cagayan and Isabela, for example, to the market in Manila, the per square meter price has jacked up to some P3,000 a square meter from just P50 to P150 a square meter when Plaridel was still a quiet agricultural town.

Jose said the offers for the land could be irresistible considering that many farmers can only earn about P100,000 a year from a one-hectare property. If they sell it outright, they stand to easily earn at least a million. “*Sobrang laki po ng presyuhan,*” (“The selling prices [for agricultural land] are really high,”) he said.

“*Kaya nakikita na yung bukid nagiging unti-unting industrial,*” (“We see that the farms are slowly turning into industrial areas” said Jose. This happens despite the fact that Plaridel is one of the towns fortunate enough to have irrigation facilities that allow the land to produce crops at least twice a year.

Today, the landscape is dotted by signs of economic development, from warehouses to glass and precast manufacturing facilities. And more will soon be added to the list if wholesale conversion of the agricultural land will be allowed to continue.

The short-term gains, however, have far-reaching implications, not least of which is the continued reduction in the area available to produce food for the Philippines’ ever-growing population. If left unchecked, the Philippines may have subdivisions and other commercial establishments stretching as far as the eye can see, but without its own food to eat.