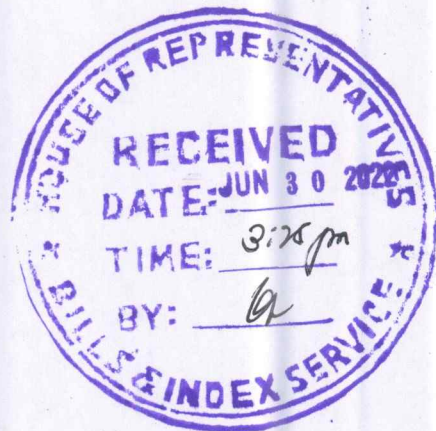




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 223



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 farm worker 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 *haciendero* 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.

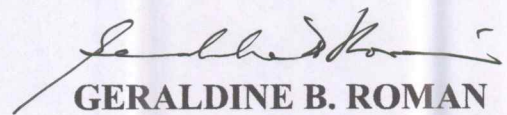
Agriculture continues to be one of the weakest links in our economy. A higher incidence of poverty is prevalent in the farming sector particularly among the landless farmers and the farm workers.

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.


GERALDINE B. ROMAN



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House Bill No. 223

Introduced by Representative **GERALDINE B. ROMAN**

AN ACT
PROVIDING FOR THE COMPLETION OF THE COMPREHENSIVE
AGRARIAN REFORM PROGRAM, INSTITUTING FOR THE
PURPOSE ITS SECOND PHASE, GIVING SUBSIDY IN THE
ACQUISITION AND DISTRIBUTION OF AGRICULTURAL LANDS
TO BENEFICIARIES AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. *Agrarian Reform's Second Phase.* – The second phase of the comprehensive agrarian reform program shall be instituted which includes the distribution of fully-subsidized agricultural lands to qualified agrarian reform beneficiaries and they are no longer required to pay any amortization for their awarded lands. The beneficiaries shall benefit from the government subsidy to the extent of the unpaid amortizations and interest charges which are due.

SEC. 2. *Distribution Preference.* – Agrarian reform beneficiaries who have completely paid the thirty-year amortization schedule and interest charges

shall be given preference in the award of the new package of support services from the National Government which includes initial capital upon issuance of the Certificate of Land Ownership Award (CLOA), access to credit facilities and automatic qualification to various support services including availments for housing, education, and other loans.

SEC. 3. *Notice of Coverage in Private Agricultural Lands.* – The Department of Agrarian Reform (DAR) shall issue and serve 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 (RA) No. 6657, otherwise known as the “*Comprehensive Agrarian Reform Law of 1988*,” as amended, including the distribution of individual CLOAs to agrarian reform beneficiaries, except to retention areas of landowners who exercised such right under Presidential Decree No. 27, entitled “*Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to Them the Ownership of the Land They Till and Providing the Instruments and Mechanism Therefor*,” which granted retention areas exceeding five hectares and to landholdings covered by ancestral domain titles and claims.

For purposes of this Act, private lands which are over 18 percent in slope and are devoted for agricultural development or where agricultural activity exists are hereby classified as agricultural, and alienable and disposable, and shall be placed under the coverage of the agrarian reform program.

Any issue, dispute, or controversy arising from the issuance of the Notice of Coverage shall be resolved by the DAR subject to existing rules and regulations, without prejudice to the continuation of the land acquisition and distribution process despite the pendency of any such issue, dispute, or controversy.

SEC. 4. *Acquisition of Unused Government-Owned Lands.* – 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, including all patrimonial lands of the State which are agricultural or arable and all such lands which are more than 18 percent slope but are agriculturally developed for the last two (2) years as determined by the DAR.

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 an instrumentality concerned when it is immediately occupied, utilized, and applied for the purpose for which it was reserved or acquired, or when the land is necessary for the attainment of the mandate or the purpose of the said department, bureau, office, or instrumentality by virtue of a presidential proclamation, executive fiat or legislative grant, or otherwise acquired through other modes of transferring ownership.

Any issue, dispute, or controversy arising from the issuance of the NTPA shall undergo the process prescribed under Joint DOJ-DAR Administrative Order No. 7, Series of 2008. In the event that the settlement is not reached, the affected agency may file a verified petition opposing the coverage before the Secretary of Department of Agrarian Reform.

SEC. 5. *Determination of Just Compensation Due to Landowners.* – The just compensation to the landowner shall be broken down into the following, regardless of the area of the landholding acquired from the landowner:

- (a) 30% Cash, and
- (b) 70% Agrarian Reform Bond with interest aligned with 91-day Treasury Bills rate.

The just compensation shall be initially determined by the DAR, with the technical assistance of the Land Bank of the Philippines which will devise a valuation guideline in accordance with Section 17 of RA 6657, as amended. Just compensation should be the fair market value 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 taking into consideration inflation, among other pertinent factors. 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: *Provided*, That the filing and pendency of such an action shall not adversely affect the registration of the CLOA by their respective agrarian reform beneficiaries.

Unpaid taxes incurred by the landowner relative to the land subject of a CLOA shall not be included, or added to, or charged against the just compensation contemplated in this Section.

SEC. 6. *Department of Agrarian Reform Exclusive Jurisdiction.* – The DAR exercises exclusive jurisdiction in cases involving agrarian matters or disputes 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;

(d) Cases when the DAR exercises quasi-judicial power as provided under Section 50 and Section 50-A of RA 6657, as amended;

(e) Final resolution of issues, disputes, and controversies arising out of Agribusiness Venture Arrangements (AVAs); and

(f) Any matter, dispute, or controversy arising from agrarian reform issues and implementation of agrarian reform programs.

Within One hundred eighty (180) days after the effectivity of this Act, any Court shall, without prejudice, dismiss any case not yet submitted for decision or resolution of the main issues involving an agrarian dispute, pending before their office, and automatically refer the case to the DAR.

SEC. 7. *Duty of the Presidential Agrarian Reform Council.* – The Presidential Agrarian Reform Council (PARC) 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. The PARC shall submit its findings and recommendations to the Congressional Oversight Committee of the Agrarian Reform (COCAR) for the purpose of amending the statutory ownership ceiling for awarded lands and for the retention areas.

SEC. 8. *Scope of Exemption.* – Landholdings which are exempted from the coverage of the Comprehensive Agrarian Reform Program as provided under Section 10 of RA 6657, as amended, is supplemented by the inclusion of landholdings which have been reclassified for any type of use that is not agricultural are also exempted from the coverage provided that the landholding has been reclassified before 15 June 1988. The landholding is exempted from

the Comprehensive Agrarian Reform Program when 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 RA 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 percent 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; and

(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.

SEC. 9. *Scope of Exclusion of Landholdings.* – Landholdings which have been excluded from the Comprehensive Agrarian Reform Program due to activities such 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 after due coordination with the Department of

Agriculture (DA) and in conformity with RA 8435 otherwise known as the “*Agriculture and Fisheries Modernization Act of 1997.*”

SEC. 10. *Scope of Conversion of Agricultural Lands.* – Conversion grant from the DAR shall be secured even if the agricultural landholding to be converted for a commercial, residential, or industrial purpose is not an awarded land or part of the retention area.

If the landholding is within the Strategic Agriculture and Fisheries Development Zone (SAFDZ), only 5% of the said area is eligible for conversion.

The maximum of 5% equivalent to the total area determined to be eligible for conversion to non-agricultural use shall be jointly determined by the DA and the DAR, subject to existing laws and regulations.

SEC. 11. *Exclusion from Qualified Beneficiaries.* – Agrarian reform collective or cooperatives are excluded from the qualified beneficiaries under the Comprehensive Agrarian Reform Program, without prejudice to the agrarian reform beneficiaries’ option for co-ownership.

SEC. 12. *Support Services to Agrarian Reform Beneficiaries.* – The DAR shall, together with the PARC, ensure that the agrarian reform beneficiaries receive support services and assistance indispensable for agricultural productivity, enterprise development, financial literacy, sustenance, dwelling, clothing, medical assistance, education, and transportation. Any form of support services rendered by any banking or financial institution for the

benefit of an agrarian reform beneficiary is considered a form of support under the agrarian reform program implementation.

This section is without prejudice to the support services available to agrarian reform beneficiaries from other national government agencies.

SEC. 13. ***Prohibition on the Issuance of Restraining Order or Preliminary Injunction.*** – 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.

SEC. 14. ***Illegal Conversion.*** – The conversion of any agricultural land to non-agricultural use without approval from the DAR is prohibited and landowners who violate this provision shall be penalized in accordance with Section 74 of RA 6657, as amended.

SEC. 15. ***Congressional Oversight Committee.*** – The Congressional Oversight Committee on Agrarian Reform (COCAR) shall continue to perform the duties and responsibilities as provided under Sections 26, 27, and 28 of RA 9700, entitled “*An Act 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 Republic Act No. 6657, Otherwise, Known as the Comprehensive Agrarian Reform Law of 1988, as amended, and Appropriating Funds therefor.*”

SEC. 16. ***Appropriations.*** – The amount necessary for the initial implementation of this Act shall be charged against the Agrarian Reform Fund.

Thereafter, such sum as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 17. ***Implementing Rules and Regulations.*** – Within sixty (60) days from the effectivity of this Act, the Secretary of Agrarian Reform shall, in coordination with the Secretary of Environment and Natural Resources, Secretary of Agriculture, Secretary of National Defense, Secretary of Justice, Secretary of Budget and Management, Secretary of Interior and Local Government, Secretary of Public Works and Highways, Secretary of Trade and Industry, Secretary of Finance, Secretary of Labor and Employment, Secretary of Social Welfare and Development, Secretary of Human Settlements and Urban Development, Secretary of National Economic and Development Authority, Administrator of the National Irrigation Administration, Chairman of Land Bank of the Philippines, Chairperson of Commission on Higher Education, Chairperson of National Commission on Indigenous Peoples, Chairperson of Cooperative Development Authority, Agrarian Reform Beneficiaries Organizations, and Peoples and Non-Government Organizations with concentration in agrarian reform and rural development, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 18. ***Repealing Clause.*** – Any provision of RA 6657, otherwise known as the “*Comprehensive Agrarian Reform Law of 1988*,” as amended, and any other law, decree, executive order, or rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 19. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, the provisions not affected shall remain in full force and effect.

SEC. 20. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved