Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOEL L. ONG, OMAR ANTHONY L. ONG, and NORMAN L. ONG, Petitioners,	**G.R. No. 197127**
- *versus* -	Present:
NICOLASA O. IMPERIAL, DARIO R. ECHALUCE, ROEL I. ROBELO, SERAFIN R. ROBELO, EFREN R. ROBELO, RONILO S. AGNO, LORENA ROBELO, ROMEO O. IMPERIAL, NANILON IMPERIAL CORTEZ, JOVEN IMPERIAL CORTEZ, and RODELIO O. IMPERIAL, Respondents.	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
	Promulgated: JUL 15 2015

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DECISION

LEONARDO-DE CASTRO, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 seeking to reverse, nullify, and set aside the November 30, 2010 **Decision**[1] and the May 11, 2011 **Resolution**[2] of the Court of Appeals in CA-G.R. SP No. 93941.

The facts are as follows:

Petitioners Noel L. Ong, Omar Anthony L. Ong, and Norman L. Ong (petitioners) are registered owners of a parcel of land with an area of Four Hundred Five Thousand Six Hundred Forty-Five (405,645) square meters described under Transfer Certificate of Title (TCT) No. T-17045 located in Barangay Dogongan, Daet, Camarines Norte (subject property).

The Municipal Agrarian Reform Officer (MARO) of Daet issued a Notice of Coverage to petitioners on August 14, 1994.

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1 *Rollo*, pp. 30-46; penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Fernanda Lampas Peralta and Manuel M. Barrios, concurring.

2 CA *rollo*, pp. 262-263.

Petitioners wrote a letter[3] dated April 26, 1995 "vehemently protesting/objecting" to the coverage of the subject property under compulsory acquisition under Comprehensive Agrarian Reform Law (CARL), for the following reasons:

> 1) The entire area of 40.5645 [hectares] had been used as grazing area for cattle and carabao long before the passage of R.A. 6657, and is therefore, excluded from the coverage of CARL;
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> 2) After deducting the retention area of the individual landowners, the excess area of each is only 8.5215 has.;
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> 3) Considering that there are several bills pending in Congress to increase the retention area of landowners, to cover lands below 20 hectares will result only in confusion and needless paperwork should the retention area be increased in answer to the clamor of majority of landowners.

MARO Jinny Glorioso sent a letter-reply[4] on May 31, 1995, stating that the petitioners had confirmed that the entire 40.5645 hectares was actually being used for coconut production, so petitioners had failed to comply with the requirement that the property must be actually, directly and exclusively used for livestock, poultry, and swine-raising purposes. MARO Glorioso also wrote that the subject property was covered by CARL because the retention area for landowners is five hectares, and the excess area in this case is 8.5214 hectares; thus, it is covered.

On September 23, 1996, MARO Glorioso issued a Notice of Acquisition over the subject property.[5]

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3 Id. at 106.

4 Id. at 107. Pertinent portions of the letter are quoted below:

> As to your first contention, it is clear in the language of the Supreme Court in the case of *Luz Farms vs. Hon. Secretary of DAR* (G.R. No. 86889, 04 December 1990) that the property must be actually, directly and exclusively used for livestock, poultry and swine raising purposes. Be it noted that you failed to comply with the requirement as provided under A.O. 9 series 1993. Not only that, in your sworn statement on agricultural landholding mandated by E.O. 229 dated February 8, 1988, you voluntarily and freely confirmed to the effect that the entire 40.5645 hectares, its actual land use is for coconut production x x x. If your property is actually utilized for grazing purpose, why failed to check box which correspond to it (*sic*)? And, this fact is further supported by Tax Declaration No. 017-214 which the Assessor of Daet, Cams. Norte who conducted field investigation in said property evidently classified the same as coconut land rather than a grazing land x x x.
>
> As to your second contention, my answer is this, the property concerned is definitely covered by [the] CARL program based on the prioritized phasing. Under Section 6 of RA 6657, the retention area for the landowner is 5.0000 hectares. Considering the excess and in consonant to (*sic*) Phase II-B which started on the 6th year from June 15, 1988 and to be completed on the 4th year (1994-1998) which I quote: Private agricultural land with area above the retention limit up to 24 hectares. Be it observed that the excess area is 8.5215 hectares, hence, covered.
>
> And, as to your last contention, my opinion is this, as long as there is no specific provision of law to this effect to support your contention, and there is no clear-cut guidelines from our office to defer its implementation, I may consider your allegation a mere speculation or an assumption. Otherwise, I will be liable or answerable to my office. Kindly understand my situation being a subordinate. (CA *rollo*, p. 107.)

5 *Rollo*, p. 70.

Petitioners then filed an application for exemption clearance with the Department of Agrarian Reform (DAR) Regional Office V on October 16, 1996, claiming that subject property had already been reclassified as residential built-up area pursuant to the Town Plan and Zoning Ordinance of Daet dated September 21, 1978 and Zoning Ordinance No. 04, series of 1980. Petitioners submitted the following supporting documents:

1. Certified True Copy of TCT No. 17045;

2. Location Map;

3. Certification dated 9 October 1996 issued by [Deputized Zoning Administrator (DZA)] Jesus L. Hernandez, Jr. stating that the subject landholding is within the residential built-up area per Zoning Ordinance No. 4, series of 1980;

4. Certification dated 9 December 1996 issued by Jesus A. Obligacion, Regional Director of Housing and Land Use Regulatory Board (HLURB), Region V, stating that the Town Plan and Zoning Ordinance of Daet, Camarines Norte was approved by then Human Settlements Regulatory Commission now HLURB on 21 September 1978;

5. Certification dated 14 October 1996 issued by Antonio A. Avila, Jr. of the National Irrigation Administration (NIA) of Daet, Camarines Norte stating that the subject land is not covered by an existing irrigation system [or] by [an] irrigation project with firm funding commitment; and

6. Certification dated 5 March 1997 issued by [MARO] Jinny P. Glorioso stating that the land covered by TCT No. 17045 [was] tenanted and a Notice of Coverage/Acquisition [had] been issued on 17 August 1996.[6]

DAR Region V Director Percival C. Dalugdug sent a letter[7] dated June 5, 1997 to Deputized Zoning Administrator Fernandez, which reads in part:

> Please be informed that subject property has already been covered by the CARP under the [Compulsory] Acquisition scheme, **because we believe that the land is agricultural and not otherwise**. x x x.
>
> x x x x
>
> In order to rectify these conflicting claims may we request from your good office for a revalidation and verification of the exact location of the above-mentioned landholding as far as its zoning location is concerned according to the Official Land Use Plan of Daet, for the proper guidance of this office in the issuance of requested DAR Exemption Clearance. x x x. (Emphasis ours.)

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6 CA *rollo*, pp. 67-68.

7 Id. at 65.

Deputized Zoning Administrator Fernandez replied to the DAR Director's request for revalidation and verification of the exact location of the subject property in the following manner:

> **Please be informed that there is no conflict between the official land use map of 1978 and the certification issued by our Office. Please note that what is reflected in the aforesaid town plan is the actual use of properties in Daet as of 1978, while our Certification states that the property under TCT T-17045 is within the RESIDENTIAL BUILT-UP AREA**. x x x.
>
> x x x x
>
> The projected increase of 278.465 hectares is the Built-Up Area for residential purposes, to which the property in question is classified. Please be informed further that in classifying Built-Up areas, we give priority to properties in the center or poblacion of barangays connected to provincial or national roads, more so if the adjacent properties are already being used and classified as residential as of 1978. **Please note that in the land use map of 1978, the area directly in front of the property in question, as well as the property in the eastern portion are already classified as residential areas.** We took into consideration also the fact that the Barangay Hall Day Care and Health Center of the Barangay are located in this area.
>
> **We hope that all the above explanation clears the issue on the supposed conflicting claims, and we see no reason to rectify our Certification dated October 9, 1996 regarding the property under TCT No. T-17045-C.N**.[8] (Emphases added.)

The DAR Regional Center for Land Use Policy, Planning and Implementation (RCLUPPI) V conducted an investigation and in its report, wrote the following as established facts:

> a) Subject landholdings are planted with coconuts and predominantly agricultural in nature;
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> b) Said lands are tenanted by Nicolasa Vda. De Imperial, Efren Rodelo and Julio Jamite;
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> c) The landowner executed a Deed of Undertaking to pay disturbance compensation to affected tenants;
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> **d) The area has been reclassified as residential prior to 15 June 1988;**
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> e) The area applied for conversion has not been placed under the coverage of P.D. 27 but a Notice of Coverage under R.A. 6657 had been issued on 17 August 1994 by MARO Jinny P. Glorioso; and
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> f) The area is not irrigated nor scheduled for irrigation rehabilitation nor irrigable (*sic*) with firm funding commitment.[9] (Emphasis ours.)

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8 Records, OP Case No. 04-L-500, Annex "H."

9 CA *rollo*, p. 68.

Based on their findings, the DAR RCLUPPI V investigating team recommended the denial of petitioners' application for exemption. DAR Region V Director Dalugdug in his 2nd Indorsement to the DAR Secretary dated September 30, 1997, wrote:

> **This Office, after a careful evaluation of the records of the application, concurs with the findings and recommendations of the RCLUPPI V [Investigation] team for the denial of the application on the ground that the subject property has been [placed] under compulsory coverage and a Notice of Acquisition was already issued by the MARO of Daet, Camarines Norte.** Moreover, the contention/justification of the Deputized Zoning Administrator when he was requested to explain why the properties are in the green [color-coded] in the land use map as stated in his July 7, 1997 letter cannot be given credence by this Office. **This is due to the fact that we believe that the built-up area for residential areas provided in the right hand portion of the map (from 258 to 556 has.) or another 258 has. between 1978 and 1982) has long been exhausted**. If one will take note, the present residential area of Daet is well beyond the 556 has. limit set for 1982. **The Ong property, [therefore], can no longer find any room in the built-up area under the 1978 land use plan.**[10] (Emphases ours.)

Upholding the findings of the Regional Office, then DAR Secretary Horacio R. Morales, Jr. issued an Order[11] dated February 2, 2000 denying petitioners' Application for Exemption under DOJ Opinion No. 44, series of 1990, and directing the Director of DAR Region V "to proceed with the acquisition of the subject landholding in accordance with existing agrarian laws." Secretary Morales's Order contained the following discussion, which we quote:

> **First, the justification made by Jesus L. Fernandez, Jr., Deputized Zoning Administrator of Daet, Camarines Norte, in his letter dated 7 July 1997, is not sufficient to prove that the subject land is classified as built-up area for residential purposes. It is true that the said agency is the proper forum to certify as to the classification of a parcel of land within their jurisdiction. However, the same must be supported by substantial evidence. The findings of the Regional Director reveal that the built-up area for residential purposes provided in the right hand portion of the Official Land Use Plan of 1978 of the Municipality of Daet has long been exhausted.** Thus, the present residential area of Daet is well beyond the 556-hectare limit set for 1982. Therefore, the subject landholding cannot be considered as part of the built-up area reserved for residential purposes. The subject landholding remains agricultural based on the original land use plan in 1978. Being an agricultural land, the subject landholding is within the ambit of RA 6657.
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> Second, Administrative Order No. 6, Series of 1994, requires that any application for exemption should be accompanied by a Certification from the Housing and Land Use Regulatory Board (HLURB) that the

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10 Id. at 66.

11 Id. at 67-71.

> pertinent zoning ordinance has been approved by the Board prior to 15 June 1988. In the case at hand, the original land use plan in 1978 shows that the subject landholding was agricultural in nature. The Deputy Zoning Administrator claims that the subject landholdings became part of the residential built-up area by virtue of an authority indicated in the right hand portion of the land use plan to extend the residential area from 258 hectares in 1980 to 556 hectares in 1982. However, **it is not shown that the 1982 land use plan had been similarly approved by the HLURB. No proof has ever been presented that the 1982 land use plan had been approved by the HLURB. Since coverage is the general rule, applicant has the burden of proof that subject property is exempt**.

Acting on petitioners' Motion for Reconsideration,[12] then DAR Secretary Hernani A. Braganza issued an Order[13] on June 20, 2002 stating that the opinion of the Deputized Zoning Administrator had insufficient basis and could not prevail over the clear findings of the DAR Regional Director.

Meanwhile, TCT No. T-4202-A (Certificate of Land Ownership Award No. 00538736)[14] was issued to "Nicolasa Imperial, *et al*." covering 253,263 square meters in Barangay Dogongan, Municipality of Daet, Province of Camarines Norte on October 27, 2000.

Petitioners appealed the DAR Orders dated February 2, 2000 and June 20, 2002 (the questioned DAR Orders) to the Office of the President for review.

The records from the Office of the President contained a copy of a document entitled Memorandum for the Executive Secretary from DESLA Manuel G. Gaite, Subject: Appeal of Noel Ong in O.P. Case No. 04-L-500 dated July 29, 2005 and we note the following portion of said memorandum:

> The DZA has positively declared that the subject property is within the reclassified built-up residential areas of the municipality. As far as the coverage of the Municipal Ordinance is concerned, the DZA should have the last say, since it is within its mandate to determine the coverage of the zoning ordinance and therefore has exclusive jurisdiction as far as the issue is concerned. Verification likewise of the records show (Rec. p. 12) that the application is accompanied by a corresponding certification of HLURB Region No. 5, Regional Director, Jesse A. Obligacion that the pertinent Municipal Ordinance No. 4 of Daet, Camarines Norte, has been approved by the HLURB on September 21, 1978, prior to June 15, 1988, the effectivity of the CARP law.[15]

The Office of the President rendered its Decision[16] on September 5, 2005 signed by Executive Secretary Eduardo Ermita. The Office of the President declared that the main issue was whether or not the subject

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12 Id. at 127-133.
13 Id. at 74-78.
14 Id. at 72-73. The reference indicates that said certificate was a transfer from TCT No. T-53452.
15 Records, O.P. Case No. 04-L-500.
16 *Rollo*, pp. 74-75.

property had been reclassified as residential so as to exempt it from Comprehensive Agrarian Report Program (CARP) coverage. The Office of the President found that "[a] closer scrutiny of the facts will reveal that the DAR Secretary concurred with the findings of the DAR Regional Director, who in turn relied on his own **belief** that the land is agricultural and not otherwise." The Office of the President reversed and set aside the questioned DAR Orders and approved petitioners' application for clearance, "exempting from CARP coverage the 40.5 hectares property with TCT No. T-17045, situated in Barangay Dogongan, Daet, Camarines Norte."

We quote below relevant portions of the September 5, 2005 Decision of the Office of the President:

> A careful reading of the map would show that what the DAR Secretaries referred to as having been fully exhausted/allocated, are those actual and original residential areas of the municipality totaling 278.465 hectares, as indicated in colored map. It does not refer to those additional built-up residential areas of the Municipality covered by the Ordinance in the total area of 556.93 hectares pointed out by DZA, which includes the property in question.
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> **Thus, as between the findings of the DAR Regional Director and the DZA, we must favor the expertise of the latter. The determination and classification of land areas within their jurisdiction is rightfully vested in the local government unit concerned, in this case, the Deputy Zoning Administrator of Daet, as approved through municipal ordinance.**
>
> Under the foregoing circumstances, the denial of the exemption on the ground that the MARO has already issued a NOTICE OF ACQUISITION in 1994 is flawed. The area having already been reclassified as residential prior to June 1988 (as established by the DAR RCLUPPI V), it cannot be the subject of a Notice of Acquisition which covers only agricultural lands. Perforce, the Notice of Acquisition over the subject property is *void ab initio.*
>
> Finally, the ruling of the DAR Secretary that the application for exemption was belatedly filed in order to defeat CARP coverage of the property is untenable. What invalidated CARP coverage over the subject property is not the application for exemption, but the fact the land in question not being anymore agricultural, is beyond the coverage of CARP, pursuant to Section 4 of R.A. 6657 (Natalia Realty vs. Department of Agrarian Reform, supra).[17]

In a subsequent Order[18] dated March 3, 2006, the Office of the President resolved the Verified Motion for Intervention with Motion for Reconsideration (of the September 5, 2005 Decision of the Office of the President) filed by Nicolasa O. Imperial, Dario R. Echaluce, Roel I. Robelo, Serafin R. Robelo, Efren R. Robelo, Ronilo S. Agno, Lorena Robelo, Romeo O. Imperial, Nanilon I. Cortez, Joven I. Cortez, and Rodelio O.

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17 Id. at 70-75.

18 Id. at 86-88.

Imperial (respondents), who raised the following as grounds for reconsideration:

1. The Decision violates their constitutional rights to due process;

2. The opinion of the Municipal Deputy Zoning Administrator (DZA) of Daet cannot prevail over the expert opinion of the Department of Land Reform on the matter;

3. The application for exemption by the applicants-appellants was a mere afterthought intended merely to defeat the CARP coverage; and

4. There is no proof that prior to the alleged reclassification of the subject land, a public hearing was conducted and the required percentage of the total agricultural land area at the time of the passage of the ordinance was considered.

The Office of the President denied the Motion for Intervention and Reconsideration and reaffirmed its earlier Decision, reasoning as follows:

> While it is true that movants were not made parties to the case, this was so because **applicants Ong, et al. filed their application for exemption from CARP coverage pursuant to DOJ Opinion No. 44, Series of 1990, as implemented by DAR Administrative Order No. 06, Series of 1994. The application for exemption was premised on the doctrine (as affirmed by DOJ Opinion No. 44) that a land already converted to residential prior to June 15, 1988 cannot be the subject of a Notice of Acquisition since the subject land, being residential and not agricultural, is already beyond the coverage of CARP.** (Natalia Realty vs. DAR, 225 SCRA 278) Hence, **the application was not adversarial against any other parties, but personal to the landowner-petitioner.**
>
> Nevertheless, the implementation of DAR A.O. No. 6, series of 1994, puts in place a process of application and notice so that all parties concerned are fully aware of the pending application for exemption clearance.
>
> Upon receipt of an application for exemption pursuant to DOJ Opinion No. 44, the DAR Regional Center for Land Use, Policy, Planning and Implementation (RCLUPPI) field unit conducts an ocular inspection. In that inspection, the field unit interviews and informs the tenants/farmers if any, that such an application is pending.
>
> Further, the RCLUPPI unit files a detailed report, indicating therein the number of farmer-beneficiaries affected and whether or not a Deed of Undertaking was executed by the landowner to pay disturbance compensation to affected tenants. In this case, appellants Ong et al. executed a Deed of Undertaking dated January 11, 1997, in favor of tenants Nicolasa vda. De Imperial, Efren Robelo and Julio Jamito. The RCLUPPI Region V also reported that there were only three tenants at the time of the inspection. Hence, the rest of the intervenors-movants herein are either children or relatives of the above-named three tenants of the Ong family.

> **It is therefore incorrect to say that movants-intervenors were totally unaware of the proceedings until they received the questioned Decision on September 26, 2005. Thus, we hold that there was reasonable opportunity to intervene since the application was filed in 1996**. During this period, the proceedings were elevated from the Regional to Department level, and finally on appeal to this Office.[19] (Emphases added, citation omitted.)

Unsatisfied, respondents filed a petition for review with the Court of Appeals under Rule 43 seeking to nullify and set aside the Decision dated September 5, 2005 and the Order dated March 3, 2006, both of the Office of the President. This was docketed as CA-G.R. SP. No. 93941.

RULING OF THE COURT OF APPEALS

In its November 30, 2010 Decision, the Court of Appeals ruled "that the Office of the President committed reversible error in reversing the Orders of the DAR Secretaries and in approving [petitioners'] Application for Exemption of their property from the CARP." The Court of Appeals ratiocinated as follows:

> While WE agree with the Office of the President that lands which have been reclassified as residential prior to June 15, 1988 [cannot] be the subject of compulsory acquisition by the DAR for its agrarian reform program, WE are not inclined to sustain its ruling approving the application for clearance of respondents exempting from CARP coverage the subject landholding **because of respondents' failure to comply with the requirements for such exemption.**
>
> A careful scrutiny of the record of this case reveals that the Office of the President failed to judiciously examine the supporting documents submitted by respondents in their application for exemption.
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> x x x x
>
> As can be gleaned from [DAR Administrative Order No. 6, series of 1994, or the "Guidelines for the Issuance of Exemption Clearances based on Sec. 3(c) of RA 6657 and the Department of Justice (DOJ) Opinion No. 44, Series of 1990"], an application for exemption from the coverage of the CARP must be accompanied by a certification from the HLURB that the pertinent zoning ordinance has been approved by the Board prior to June 15, 1988 (the date of effectivity of the CARL**). In the instant case, respondents did file an accompanying Certification from the HLURB. However, a meticulous perusal of the Certification issued by the HLURB as compared with the one issued by the Deputized Zoning Ordinance shows glaring inconsistencies which cast doubt as to the land use classification of respondents' landholding. x x x.**
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> x x x x
>
> The glaring inconsistency and discrepancy in the foregoing certifications are readily apparent. According to the Deputized Zoning

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[19] Id. at 87.

> Administrator of Daet, Camarines Norte, the Zoning Ordinance reclassifying the landholding of respondents into residential land was passed in 1980, however, in the Certification of the HLURB the said "Town Plan and Zoning Ordinance of Daet, Camarines Norte was approved by the Housing and Land Regulatory Board, then Human Settlements Regulatory Commission on September 21, 1978." Obviously, the approved Zoning Ordinance being referred to in the Certification of the HLURB was not Zoning Ordinance No. 4, Series of 1980 mentioned by the Deputized Zoning Administrator in his Certification. For how could the HLURB [approve] on September 21, 1978 a town plan and zoning ordinance still to be passed in 1980. Certainly, the HLURB could not approve a zoning ordinance which was not yet existing at the time of the passage of the approval. The HLURB must have been referring to another town plan and zoning ordinance of Daet, Camarines Norte which was passed in 1978 and not in 1980. This can be inferred from the letter of Deputized Zoning Administrator Jesus L. Fernandez, Jr. x x x.
>
> x x x x
>
> If what was approved by the HLURB on September 21, 1978 was the 1978 original land use plan of Daet, Camarines Norte [t]hen the inescapable conclusion would be that subject landholding of respondents is not exempt from CARP coverage since the same was classified as agricultural in nature as found by the then DAR Secretary Horacio R. Morales, Jr. x x x.
>
> x x x x
>
> Even assuming for the sake of argument, that a zoning ordinance was enacted after 1978, particularly in 1980 or 1982, reclassifying respondents' landholding from agricultural to non-agricultural or residential, still OUR conclusion would be the same since no proof was ever presented that the later zoning ordinance was approved by the HLURB. We are, therefore, in accord with the x x x disquisition of the DAR Secretary x x x.[20]

The Court of Appeals denied petitioners' Motion for Reconsideration. Hence, this appeal.

The parties submitted their respective Memoranda on July 1, 2013 (petitioners) and July 12, 2013 (respondents).[21]

THEORY OF PETITIONERS

Petitioners are now before us to raise the following issues which they allege to be purely questions of law:

> 1. Whether or not the subject landholding of the petitioners is exempted from the coverage of the government's Comprehensive Agrarian Reform Program;

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20 Id. at 40-44.

21 Id. at 186-204; 206-223.

2. Whether or not the petition filed by respondents before the Court of Appeals is exempted from the rule that errors not assigned on appeal cannot be passed upon.[22]

Petitioners claim that the Court of Appeals failed to take into consideration that with respect to the alleged discrepancy involving the approval of Zoning Ordinance No. 4, series of 1980, and the ratification of Daet's Town Plan by the National Coordinating Council for Town Planning, Housing and Zoning (NCCTPHZ) in 1978, the NCCTPHZ was created as a first attempt to formulate and approve the Comprehensive Development Town Plans in selected municipalities throughout the country as mandated by Letter of Instructions No. 729; that almost all the town plans then approved by the NCCTPHZ included a Land Use Plan, but not a Zoning Plan or an adopted Zoning Ordinance; that after one year, the NCCTPHZ was dissolved, and the Human Settlements Regulatory Commission (now HLURB) subsequently formed was the one that required a Zoning Ordinance as part of the Comprehensive Development Plan to be submitted by each municipality for approval. Petitioners contend that Daet, Camarines Norte was among the first municipalities which formulated its Comprehensive Development Plan approved by NCCTHPZ without a zoning ordinance and that "it was only in 1980 that the Sangguniang Bayan of Daet adopted their zoning ordinance based on their previously approved Land Use Plan."[23]

Petitioners contend that they are deemed to have substantially complied with the requirements of Administrative Order No. 6, series of 1994, particularly with respect to the HLURB certification that the pertinent zoning ordinance must have been approved by the board prior to June 15, 1988. Petitioners point out that "there was no HLURB yet at the time that Daet's Town Plan was prepared and the Zoning Ordinance was passed" and that the "HLURB came about when the former Human Settlements Regulatory Commission was renamed" [24] per Executive Order No. 90 dated December 17, 1986. Petitioners allege that it is absurd to require approval by the HLURB of the subject 1980 Zoning Ordinance. Petitioners further allege that the approval of Daet's Town Plan or Land Use Plan on September 21, 1978 by NCCTPHZ or HSRC must be favorably considered to have carried with it the corresponding approval of the Zoning Ordinance subsequently passed in 1980 which, in the first place, was based on the HSRC-approved 1978 Town Plan or Land Use Plan.

Petitioners cite *Junio v. Garilao*[25]:

> The Certification issued by the Board expressly mentioned that the "property x x x, Lot 835-B located at Brgy. Tangub, Bacolod City, covered by TCT T-79622, x x x was identified for residential use under

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22 Id. at 13.
23 Id. at 19.
24 Id. at 20.
25 503 Phil. 154, 168 (2005).

> the 1976 Framework Plan of the City of Bacolod prepared pursuant to the Program of the then Ministry of Local Government and approved by the City Council in its Resolution No. 5153-A, Series of 1976." It also certified that the "area where the aforecited property is located was likewise identified for residential use under the Town Planning, Housing Zoning Program of the National Coordinating Council of the then Ministry of Human Settlements as approved under the City Council Resolution No. 5792, Series of 1977. x x x." (Citations omitted.)

Petitioners, alternatively, submit that the HLURB approval of the 1980 Zoning Ordinance is not necessary following the provision of Section 4 in relation to Section 3(c) of Republic Act No. 6657, which reads:

> SECTION 3. *Definitions*. — For the purpose of this Act, unless the context indicates otherwise:
>
> x x x x
>
> (c) *Agricultural land* refers to land devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land.
>
> SECTION 4. *Scope*. — The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.
>
> More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:
>
> > (a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain.
> >
> > (b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
> >
> > (c) All other lands owned by the Government devoted to or suitable for agriculture; and
> >
> > (d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

Petitioners submit that there is nothing in the above provisions of law that requires the exercise of the power to reclassify an agricultural land to be approved by the HLURB. Petitioners claim that such power to reclassify is exclusively within the authority of the local government unit concerned. Petitioners allege that given the reclassification of the subject property to

residential pursuant to Ordinance No. 04, series of 1980, based on the 1978 approved Town Plan, the same can no longer be reverted to agricultural. Petitioners conclude that since the subject property was reclassified from agricultural to residential long before June 15, 1988, it is therefore exempt from the coverage of the CARL.[26]

Petitioners likewise argue that the Court of Appeals "committed palpable and patent error and/or grave abuse of discretion in holding that the present case is exempted from the rule that errors not assigned on appeal cannot be passed upon."[27]

According to petitioners, the Court of Appeals expressly admitted that the issue regarding the alleged lack of proof of approval by the HLURB of the 1980 Zoning Ordinance was not raised as an error in the appealed case, but the Court of Appeals was able to justify its action by enumerating the instances when an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal, and claiming that the present case fell squarely under the enumerated exceptions. Petitioners submit that the instant case does not fall under any of the mentioned exceptions.[28]

Petitioners claim injustice because the Court of Appeals allegedly allowed respondents to intervene in the instant case even beyond the period prescribed by the Rules of Court.

THEORY OF RESPONDENTS

Respondents allege that a careful reading of the Certification issued by the HLURB as compared with the one issued by the Deputized Zoning Administrator would show "glaring inconsistencies which cast doubt as to the land use classification of petitioners' landholding."[29]

Respondents contend that if "what was approved by the HLURB on September 21, 1978 was the original land use plan of Daet, Camarines Norte, then the inescapable conclusion would be that the subject landholding of respondents is not exempt from CARP coverage since the same was classified as agricultural in nature."[30]

Respondents claim that HLURB approval is required for reclassification of land through local ordinance, contrary to petitioners' contention.

As regards petitioners' allegation that the Court of Appeals committed grave abuse of discretion when it passed upon an issue not

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26 *Rollo*, p. 22.
27 Id. at 23.
28 Id.
29 Id. at 216.
30 Id. at 218.

assigned as error, respondents argue that this maxim is subject to exceptions as provided in Section 8 of Rule 51.

Claiming that they are indispensable parties, respondents finally argue that the allowance of their motion to intervene by the Court of Appeals even beyond the period prescribed by the Rules of Court was proper.

THIS COURT'S RULING

The petition has merit. We sustain the September 5, 2005 Decision of the Office of the President and its Order dated March 3, 2006 and thus reverse the questioned Decision and Resolution of the Court of Appeals, which upheld the decision of the DAR to deny petitioner's request for exemption from CARP for the subject property.

The power to reclassify land is granted by law to the local government, which was validly exercised in this case. The subject property having already been validly reclassified to residential land by the municipality of Daet prior to June 15, 1988, when the CARL took effect, then it is exempt from the coverage of CARP.

DISCUSSION

At the outset, we would like to address petitioners' contention that the Court of Appeals allegedly allowed respondents to intervene in the instant case even beyond the period prescribed by the Rules of Court. The Court of Appeals found, however, that being the farmer-beneficiaries, respondents "have substantial rights or interests in the outcome of the case;" that "[i]ndisputably, they stand to be directly injured by the assailed Decision of the Office of the President;" and that "their rights or interests cannot be adequately pursued and protected in another proceeding." Furthermore, the Court of Appeals, in giving due course to respondents' intervention, reasoned that this Court has in the past allowed a party to intervene even beyond the period prescribed by the Rules, as "the allowance or disallowance of a motion for intervention rests on the sound discretion of the court after consideration of the appropriate circumstances." We see no reason to question the Court of Appeals' discretion on this matter.[31]

Nevertheless, we disagree with the Court of Appeals' disposition of the substantive issue of whether subject property is exempt from the coverage of the CARP.

We have unequivocally held that "to be exempt from CARP, all that is needed is one valid reclassification of the land from agricultural to non-

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31 Id. at 37-38.

agricultural by a duly authorized government agency before June 15, 1988, when the CARL took effect."[32]

As to what is a "duly authorized government agency," the DAR Handbook for CARP Implementors[33] recognizes and discusses the LGU's authority to reclassify lands under Republic Act No. 7160 or the Local Government Code.[34]

Moreover, in *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*,[35] the Court held that "[it] is undeniable that the local government has the power to reclassify agricultural into non-agricultural lands." Citing *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals*,[36] the Court further held that this power is not subject to DAR approval, and we quote:

> [P]ursuant to Sec. 3 of Republic Act No. (RA) 2264, amending the Local Government Code, municipal and/or city councils are empowered to "adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission." **It was also emphasized therein that "[t]he power of the local government to convert or reclassify lands [from agricultural to non-agricultural lands prior to**

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32 *Buklod Nang Magbubukid sa Lupaing Ramos, Inc. v. E. M. Ramos and Sons, Inc.*, 661 Phil. 34, 88 (2011).

33 Downloaded from the Department of Agrarian Reform (DAR) Legal Information System (LIS) <http://www.lis.dar.gov.ph> on April 8, 2015.

34 16.6 *LGU's AUTHORITY TO RECLASSIFY*
*Does RA 7160, otherwise known as the Local Government Code of 1991 give the cities and municipalities the authority to **convert** agricultural lands to non-agricultural uses*?
No, what the Code provides is the authority of cities and municipalities to **reclassify** lands into uses within their jurisdiction subject to certain limitations and conditions.
What are the requirements and procedures for reclassification?
a. The city or municipal development council shall recommend to the Sangguniang Panglunsod or Sangguniang Bayan, as the case may be, the reclassification of agricultural lands within its jurisdiction.
b. Before enacting the ordinance reclassifying agricultural lands, the Sanggunian concerned must first secure the following certificates:
   1. Certification from DA indicating the total area of existing agricultural lands in the city or municipality, that such lands are not classified as non-negotiable for conversion or reclassification; and that the land has ceased to be economically feasible and sound for agricultural purposes.
   2. Certification from DAR indicating that such lands are not distributed, or not covered by a notice of coverage or not voluntarily offered for coverage under CARP.
c. The application shall be submitted to the HLRB which upon receipt shall conduct initial review to determine if:
   1. the city or municipality has an existing comprehensive land use plan reviewed and approved in accordance with Executive Order No. 72 (1993); and
   2. the proposed reclassification complies with the limitations prescribed under Section 1 of Memo Circular No. 54.
d. The Sanggunian shall conduct public hearings for the purpose.
e. Upon receipt of the required certification from the government agencies, the Sanggunian concerned may now enact an ordinance authorizing the reclassification of agricultural lands and providing for the manner of their utilization or disposition.

35 666 Phil. 350, 373 (2011).

36 473 Phil. 64 (2004).

> **the passage of RA 6657] is not subject to the approval of the [DAR**]."[37] (Emphasis ours, citation omitted.)

In the case now before us, the Court of Appeals reversed the Office of the President's ruling approving petitioners' application for exemption clearance "because of [petitioners'] failure to comply with the requirements for such exemption." Even though not specifically assigned as an error, the Court of Appeals focused on the discrepancy it had allegedly found between the certification issued by the Deputized Zoning Administrator and the one from the HLURB regarding the year that the subject property was reclassified by the local government from agricultural to residential. The Court of Appeals even went on to state that "[a] careful scrutiny of the record of this case reveals that the Office of the President failed to judiciously examine the supporting documents submitted by respondents in their application for exemption."[38]

The Court of Appeals found it material that the HLURB certified that the "Town Plan and Zoning Ordinance of Daet, Camarines Norte was approved by the Housing and Land Use Regulatory Board, then Human Settlements Regulatory Commission on September 21, 1978"[39] while the Deputized Zoning Administrator authorized that as per Zoning Ordinance No. 4, series of 1980, subject property was within the residential built-up area. The Court of Appeals insisted that petitioners should have submitted the HLURB certification for Zoning Ordinance No. 4.

The Certification[40] from Deputized Zoning Administrator Engr. Jesus Fernandez, Jr. dated October 9, 1996, reads in part:

> This is to certify that the parcel of land owned [in] common by **NOEL L. ONG, OMAR ANTHONY L. ONG and NORMAN L. ONG** situated at Barangay Dogongan, Daet, Camarines Norte, described under Transfer Certificate of Title No. **T-17045** and Sketch Plan of Lot 1, Psu-19545, surveyed by JOSE A. GOC, JR. Geodetic Engineer, with an area of **FOUR HUNDRED FIVE THOUSAND SIX HUNDRED FORTY-FIVE (405,645)** square meters is within the **RESIDENTIAL BUILT-UP** area as per **Zoning Ordinance No. 4, series of 1980**, outside the ten meters right of way and the municipality has no proposed road expansion and improvement on the area as per record of existing Town Plan.

The body of the Certification[41] dated December 9, 1996 from the HLURB Regional Director Jesse A. Obligacion reads as follows:

> This is to certify that as per records on file, the **Town Plan and Zoning Ordinance of Daet, Camarines Norte was approved** by the Housing and Land Use Regulatory Board, then **Human Settlements Regulatory Commission** on **September 21, 1978** in accordance with

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37 *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, supra note 35 at 374.
38 *Rollo*, p. 40.
39 Id. at 43.
40 CA *rollo*, p. 63.
41 Id. at 64.

> official practices and procedures carried out pursuant to Letter of Instruction No. 511 which established a National Coordinating Council for Town Planning, Housing and Zoning (NCCTPHZ), and pursuant to HLRB Memorandum Circular No. 15, Series of 1995.

Factual as this may seem, this brings to us the crucial question of whether, based on these two certifications, petitioners had effectively complied with the requirements for exemption.

Looking at such requirements, DAR Administrative Order No. 06-94[42] or the "Guidelines for the Issuance of Exemption Clearances Based on Sec. 3(c) of Republic Act No. 6657 and the Department of Justice (DOJ) Opinion No. 44, Series Of 1990" was the prevailing rule when petitioners filed their petition for exemption. Under A.O. No. 06-94's chapter entitled "Legal Basis," it is stated that:

> Department of Justice Opinion No. 44 series of 1990 has ruled that with respect to the conversion of agricultural lands covered by R.A. No. 6657 to non-agricultural uses, the authority of DAR to approve such conversion may be exercised from the date of its effectivity, on June 15, 1988. Thus, **all lands that already classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance.**

DAR A.O. No. 06-94 also provided a list of required documents to be attached to the application for exemption clearance, as follows:

> The application should be duly signed by the landowner or his representative, and should be accompanied by the following documents:
>
> 1. Duly notarized Special Power of Attorney, if the applicant is not the landowner himself;
>
> 2. Certified true copies of the titles which is the subject of the application;
>
> 3. Current tax declaration (s) covering the property;
>
> 4. Location Map or Vicinity Map;
>
> **5. Certification from the Deputized Zoning Administrator that the land has been reclassified to residential industrial or commercial use prior to June 15, 1988;**
>
> **6. Certification from the HLURB that the pertinent zoning ordinances has been approved by the Board prior to June 15, 1988;**
>
> 7. Certification from the National Irrigation Administration that the land is not covered by Administrative Order No. 20, s. 1992, *i.e.*, that the area is not irrigated, nor scheduled for irrigation rehabilitation nor irrigable with firm funding commitment.

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[42] Released on May 27, 1994.

> 8. Proof of payment of disturbance compensation, if the area is presently being occupied by farmers, or waiver/undertaking by the occupants that they will vacate the area whenever required.

The Court of Appeals focused on petitioners' alleged "failure to comply with the requirements for such exemption," a matter not even assigned by respondents (petitioners therein) as an error, which fact the Court of Appeals itself admits in its questioned decision, and which it further admits it may not rule upon, but which it claims falls under one of the exceptions to the general rule.

The respondents' Verified Petition for Review with Prayer for Preliminary Injunction and TRO[43] filed before the Court of Appeals contains a "Concise Statement of the issues & Assignment of Errors Found in the Questioned O.P. Decision & O.P. Order committed by the Honorable Office of the President," which reads:

> I - THE HONORABLE OFFICE OF THE PRESIDENT GRAVELY ERRED IN HOLDING THAT RESPONDENTS' PARCEL OF LAND COVERED BY TCT NO. T-17045 WITH AN AREA OF 405,605 SQUARE METERS HAS BEEN RECLASSIFIED AS RESIDENTIAL LAND, HENCE, EXEMPT FROM CARP COVERAGE.
>
> II – THE HONORABLE OFFICE OF THE PRESIDENT GRAVELY ERRED IN APPLYING THE CASE OF *NATALIA REALTY VS. DAR, 225 SCRA 278* IN THE INSTANT CASE NOTWITHSTANDING THE GREAT VARIANCE IN THE PECULIAR FACTUAL MILIEU OR ENVIRONMENT OF EACH CASE.
>
> III – THE HONORABLE OFFICE OF THE PRESIDENT GRAVELY ERRED IN ADMITTING HOOK, LINE & SINKER THE [BIASED], SELF-SERVING, VAGUE, AND AMBIGUOUS CERTIFICATION OF THE DEPUTY ZONING ADMINISTRATOR & THE INADEQUATE & INSUFFICIENT HLURB CERTIFICATION, AS AGAINST THE THOROUGH & EXPERT INVESTIGATION & CONSISTENT FINDINGS THAT THE SUBJECT LAND IS AGRICULTURAL OF THE DAR RCLUPPI INVESTIGATING TEAM, THE HONORABLE DAR REGIONAL DIRECTOR, & THE HONORABLE DAR SECRETARIES.[44]

The Court of Appeals wrote:

> After a judicious review of the record of this case, WE rule to grant the Petition but on another ground.
>
> x x x x
>
> **While the foregoing issue has not been raised as an error, and therefore, WE may not pass upon it, as this would contravene the basic rules of fair play and justice, however, it is jurisprudentially**

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43 CA *rollo*, pp. 11-53a.

44 Id. at 24.

> **recognized that it is well within the authority of this Court to raise, if it deems proper under the circumstances obtaining, error/s not assigned on an appealed case.** Thus, in several cases, the Supreme Court declared that an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal in these instances: (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent. **The present case undoubtedly falls squarely under the above-enumerated exceptions**.[45] (Emphasis ours.)

To our mind, the Court of Appeals committed a reversible error when it decided the case based on a ground neither found in the aforequoted assignment of errors submitted by respondents nor in the arguments propounded in the appellants' brief. The applicable rule is Section 8, Rule 51 of the 1997 Rules of Civil Procedure, which reads:

> **Section 8.** *Questions that may be decided.* - No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

Although the Court has declared many exceptions to the above rule, and the Court of Appeals painstakingly enumerated some of these exceptions, the Court of Appeals omitted to discuss to which exception this alleged error belongs, and exactly *how* this error falls under such exception. To our mind, flexibility in applying the rules must be balanced with sufficient reason and justification, clearly arrived at and explained by the Court of Appeals, so as not to "contravene the basic rules of fair play and justice."[46]

We find that the decision of the Office of the President is more consistent with law and jurisprudence. The Office of the President found that the subject property had been properly reclassified by the appropriate local government authority as residential, a fact even noted by the DAR.

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45 *Rollo*, pp. 36, 44.

46 Id. at 44.

To reiterate, we have held that "lands previously converted by government agencies to non-agricultural uses prior to the effectivity of the CARL are outside its coverage."[47]

As to the appropriateness of an HSRC approval, the Court in *Heirs of Deleste* ruled on the validity of a local government's reclassification of land that was subsequently approved not by the HLURB, but by its predecessor, the HSRC. **The Court held that the HSRC approval is enough, and it is a valid reclassification**, as explained in the following quoted portion of the decision:

> Likewise, it is not controverted that City Ordinance No. 1313, which was enacted by the City of Iligan in 1975, reclassified the subject property into a commercial/residential area. **DARAB, however, believes that the approval of HLURB is necessary in order for the reclassification to be valid.**
>
> **We differ.** As previously mentioned, City Ordinance No. 1313 was enacted by the City of Iligan in 1975. **Significantly, there was still no HLURB to speak of during that time.** It was the Task Force on Human Settlements, the earliest predecessor of HLURB, which was already in existence at that time, having been created on September 19, 1973 pursuant to Executive Order No. 419. It should be noted, however, that the Task Force was not empowered to review and approve zoning ordinances and regulations. **As a matter of fact, it was only on August 9, 1978, with the issuance of Letter of Instructions No. 729, that local governments were required to submit their existing land use plans, zoning ordinances, enforcement systems and procedures to the Ministry of Human Settlements for review and ratification. The Human Settlements Regulatory Commission (HSRC) was the regulatory arm of the Ministry of Human Settlements.**
>
> Significantly, accompanying the Certification dated October 8, 1999 issued by Gil R. Balondo, Deputy Zoning Administrator of the City Planning and Development Office, Iligan City, and the letter dated October 8, 1999 issued by Ayunan B. Rajah, Regional Officer of the HLURB, is the Certificate of Approval issued by Imelda Romualdez Marcos, then Minister of Human Settlements and Chairperson of the HSRC, showing that the local zoning ordinance was, indeed, approved on September 21, 1978. **This leads to no other conclusion than that City Ordinance No. 1313 enacted by the City of Iligan was approved by the HSRC, the predecessor of HLURB. The validity of said local zoning ordinance is, therefore, beyond question.**
>
> Since the subject property had been reclassified as residential/commercial land with the enactment of City Ordinance No. 1313 in 1975, it can no longer be considered as an "agricultural land" within the ambit of RA 6657. x x x.[48] (Emphases supplied, citations omitted.)

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47 *Agrarian Reform Beneficiaries Association (ARBA) v. Nicolas*, 588 Phil. 827, 840 (2008).

48 *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, supra note 35 at 374-375.

The Court then cited a similar case, *Remman Enterprises, Inc. v. Court of Appeals*,[49] wherein it was held:

> In the main, REMMAN hinges its application for exemption on the ground that the subject lands had ceased to be agricultural lands by virtue of the zoning classification by the Sangguniang Bayan of Dasmariñas, Cavite, and approved by the HSRC, specifying them as residential.
>
> In *Natalia Realty, Inc. v. Department of Agriculture*, this Court resolved the issue of whether lands already classified for residential, commercial or industrial use, as approved by the Housing and Land Use Regulatory Board (HLURB) and its precursor agencies, *i.e.*, National Housing Authority and Human Settlements Regulatory Commission, prior to 15 June 1988, are covered by Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988. We answered in the negative x x x. (Citation omitted.)

We discussed the history of the HSRC in *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E. M. Ramos and Sons, Inc.*[50] wherein we said:

> The Court again agrees with the Court of Appeals that Resolution No. 29-A need not be subjected to review and approval by the HSRC/HLURB. Resolution No. 29-A was approved by the Municipality of Dasmariñas on **July 9, 1972**, at which time, there was even no HSRC/HLURB to speak of.
>
> The earliest predecessor of the HSRC, the Task Force on Human Settlements, was created through Executive Order No. 419 more than a year later on **September 19, 1973**. And even then, the Task Force had no power to review and approve zoning and subdivision ordinances and regulations.
>
> It was only on **August 9, 1978**, with the issuance of Letter of Instructions No. 729, that local governments were required to submit their existing land use plans, zoning ordinances, enforcement systems, and procedures to the Ministry of Human Settlements for review and ratification.
>
> The HSRC was eventually established on **February 7, 1981**. Section 5(b) of the HSRC Charter contained the explicit mandate for the HSRC to:
>
> > b. **Review, evaluate and approve or disapprove comprehensive land use development plans and zoning ordinances of local government**; and the zoning component of civil works and infrastructure projects of national, regional and local governments; **subdivisions**, condominiums or estate development projects including industrial estates, of both the public and private sectors and urban renewal plans, programs and projects: Provided, that the land use Development Plans and Zoning Ordinances of Local Governments herein subject to review, evaluation and approval of the commission shall respect the classification of public lands for forest purposes as

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49 534 Phil. 496, 511 (2006).

50 Supra note 32 at 79-85.

> certified by the Ministry of Natural Resources: Provided, further, that the classification of specific alienable and disposable lands by the Bureau of Lands shall be in accordance with the relevant zoning ordinance of Local government where it exists; and provided, finally, that in cities and municipalities where there are as yet no zoning ordinances, the Bureau of Lands may dispose of specific alienable and disposable lands in accordance with its own classification scheme subject to the condition that the classification of these lands may be subsequently change by the local governments in accordance with their particular zoning ordinances which may be promulgated later. x x x.
>
> Neither the Ministry of Human Settlements nor the HSRC, however, could have exercised its power of review retroactively absent an express provision to that effect in Letter of Instructions No. 729 or the HSRC Charter, respectively. A sound cannon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Article 4 of the Civil Code provides that: "Laws shall have no retroactive effect, unless the contrary is provided." Hence, in order that a law may have retroactive effect, it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood which is not embodied in the law. Furthermore, it must be borne in mind that a law is a rule established to guide our actions without no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions.
>
> x x x x
>
> **Since the subject property had been reclassified as residential land by virtue of Resolution No. 29-A dated July 9, 1972, it is no longer agricultural land by the time the CARL took effect on June 15, 1988 and is, therefore, exempt from the CARP.** (Emphases supplied, citations omitted.)

In *Buklod*, the Court cited previous decisions with the same conclusion, and we quote the relevant points of discussion below:

> This is not the first time that the Court made such a ruling.
>
> x x x x
>
> **Indeed, lands not devoted to agricultural activity are outside the coverage of CARL. These include lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than respondent DAR.** In its Revised Rules and Regulations Governing Conversion of Private Agricultural Lands to Non-Agricultural Uses, DAR itself defined "agricultural land" thus —

> "x x x *Agricultural land refers* to those devoted to agricultural activity as defined in R.A. 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, and *not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential,* commercial or industrial use."
>
> Since the NATALIA lands were converted prior to 15 June 1988, respondent DAR is bound by such conversion. It was therefore error to include the undeveloped portions of the Antipolo Hills Subdivision within, the coverage of CARL.
>
> Be that as it may, the Secretary of Justice, responding to a query by the Secretary of Agrarian Reform, noted in an Opinion that lands covered by Presidential Proclamation No. 1637, *inter alia*, of which the NATALIA lands are part, having been reserved for townsite purposes "to be developed as human settlements by the proper land and housing agency," are "not deemed 'agricultural lands' within the meaning and intent of Section 3(c) of R.A. No. 6657." Not being deemed "agricultural lands," they are outside the coverage of CARL. x x x.

That the land in the *Natalia Realty case* was reclassified as residential by a presidential proclamation, while the subject property herein was reclassified as residential by a local ordinance, will not preclude the application of the ruling of this Court in the former to the latter. **The operative fact that places a parcel of land beyond the ambit of the CARL is its valid reclassification from agricultural to non-agricultural prior to the effectivity of the CARL on June 15, 1988, not by how or whose authority it was reclassified.**

In *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals (Pasong Bayabas case),* the Court made the following findings:

> Under Section 3(c) of Rep. Act No. 6657, agricultural lands refer to lands devoted to agriculture as conferred in the said law and not classified as industrial land. Agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial and residential lands. Section 4(e) of the law provides that it covers all private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon. Rep. Act No. 6657 took effect only on June 15, 1988. **But long before the law tools effect, the property subject of the suit had already been reclassified and converted from agricultural to non-agricultural or residential land by the following administrative agencies**: (a) the Bureau of Lands, when it approved the subdivision plan of the property consisting of 728 subdivision lots; (b) the National Planning Commission which approved the subdivision plan

> subdivided by the LDC/CAI for the development of the property into a low-cost housing project; **(c) the Municipal Council of *Carmona, Cavite, when it approved Kapasiyahang Blg. 30* on May 30, 1976**; (d) Agrarian Reform Minister Conrado F. Estrella, on July 3, 1979, when he granted the application of the respondent for the development of the Hakone Housing Project with an area of 35.80 hectares upon the recommendation of the Agrarian Reform Team, Regional Director of Region IV, which found, after verification and investigation, that the property was not covered by P.D. No. 27, it being untenanted and not devoted to the production of *palay*/or corn and that the property was suitable for conversion to residential subdivision; (e) by the Ministry of Local Government and Community Development; (f) the Human Settlements Regulatory Commission which issued a location clearance, development permit, Certificate of Inspection and License to Sell to the LDC/private respondent; and, (g) the Housing and Land Use Regulatory Board which also issued to the respondent CAI/LDC a license to sell the subdivision lots. x x x.

Noticeably, there were several government agencies which reclassified and converted the property from agricultural to non-agricultural in the *Pasong Bayabas case*. The CARL though does not specify which specific government agency should have done the reclassification. To be exempt from CARP, all that is needed is one valid reclassification of the land from agricultural to non-agricultural by a duly authorized government agency before June 15, 1988, when the CARL took effect. All similar actions as regards the land subsequently rendered by other government agencies shall merely serve as confirmation of the reclassification. The Court actually recognized in the *Pasong Bayabas case* the power of the local government to convert or reclassify lands through a zoning ordinance:

> Section 3 of Rep. Act No. 2264, amending the Local Government Code, specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. A zoning ordinance prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. The power of the local government to convert or reclassify lands to residential lands to non-agricultural lands reclassified is not subject to the approval of the Department of Agrarian Reform. Section 65 of Rep. Act No. 6657 relied upon by the petitioner applies only to applications by the landlord or the beneficiary for the conversion of lands previously placed under the agrarian reform law after the lapse of five years from its award. It does not apply to agricultural lands already converted as residential lands prior to the passage of Rep. Act No. 6657. x x x.

At the very beginning of *Junio v. Garilao*, the Court already declared that:

> Lands already classified and identified as commercial, industrial or residential before June 15, 1988 — the date of effectivity of the Comprehensive Agrarian Reform Law (CARL) — are outside the coverage of this law. Therefore, they no longer need any conversion clearance from the Department of Agrarian Reform (DAR).
>
> The Court then proceeded to uphold the authority of the City Council of Bacolod to reclassify as residential a parcel of land through Resolution No. 5153-A, series of 1976. The reclassification was later affirmed by the HSRC. Resultantly, the Court sustained the DAR Order dated September 13, 1994, exempting the same parcel of land from CARP Coverage.[51]

Therefore, the Office of the President was correct when it ruled that the DAR's "denial of the exemption on the ground that the MARO [had] already issued a NOTICE OF ACQUISITION in 1994 is flawed" and that "[the] area having already been reclassified as residential prior to June 1988 (as established by the DAR RCLUPPI V), it cannot be the subject of a Notice of Acquisition which covers only agricultural lands." The Office of the President likewise correctly held that "the Notice of Acquisition over the subject property is *void ab initio.*"[52]

WHEREFORE, in view of the foregoing, we **GRANT** the petition. We hereby **SET ASIDE** the November 30, 2010 Decision and the May 11, 2011 Resolution of the Court of Appeals in **CA-G.R. SP No. 93941** and **REINSTATE** the September 5, 2005 Decision and the March 3, 2006 Order of the Office of the President.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

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51 Id. at 85-89.

52 *Rollo*, pp. 74-75.

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice