G.R. No. 190004 – LAND BANK OF THE PHILIPPINES v. EUGENIO DALAUTA.

Promulgated:

August 8, 2017

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CONCURRING AND DISSENTING OPINION

JARDELEZA, *J.:*

With respect to my esteemed colleague Justice Mendoza, I submit this Concurring and Dissenting Opinion.

The Court should **affirm**, not **abandon**, the Court's decisions in *Philippine Veterans Bank v. Court of Appeals*[1] (*Veterans Bank*), *Land Bank of the Philippines v. Martinez*[2] (*Martinez*), *Soriano v. Republic*[3] (*Soriano*), and *Limkaichong v. Land Bank of the Philippines*[4] (*Limkaichong*), (collectively, the Decisions). In these Decisions, we held that an agrarian reform adjudicator's decision on just compensation must be brought to the Special Agrarian Court (SAC) within the 15-day period stated in the rules of the Department of Agrarian Reform Adjudication Board (DARAB); otherwise, the adjudicator's decision will attain finality.

In my view, affirmance by the Court of these Decisions is the better and more prudent course of action because: (1) applying *stare decisis* will lend stability to, and inspire public confidence in, the Court's existing pronouncements validating the 15-day rule; (2) there are no strong and compelling reasons to abandon the Decisions; and (3) the arguments to support abandonment of existing doctrine have already been considered and, in my view, correctly rejected by the Court.

The proposed disposition in this case would not only reverse settled doctrines, it would also allow landowners to bring actions for the judicial determination of just compensation ten (10) years from receipt of the Notice of Coverage under Republic Act No. 6657 (RA 6657). This, to me, is simply bad policy. Aside from subverting the Congress' legislative design for the comprehensive agrarian reform program, the proposed disposition would also violate substantive and procedural law and defeat the Government's interest in paying just compensation nearest to the time of taking.

Furthermore, while I believe that the petition should be denied in accordance with our ruling in *Limkaichong,* the case should be remanded

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1 G.R. No. 132767, January 18, 2000, 322 SCRA 139.
2 G.R. No. 169008, July 31, 2008, 560 SCRA 776.
3 G.R. No. 184282, April 11, 2012, 669 SCRA 354.
4 G.R. No. 158464, August 2, 2016.

because both the Special Agrarian Court (SAC) and the Court of Appeals (CA) failed to apply the appropriate formula to compute just compensation.

I

In 1996, the Second Division of the Court promulgated *Republic v. Court of Appeals*[5] (*Republic*). There, through Justice Vicente V. Mendoza, we held that the original and exclusive jurisdiction to determine just compensation belonged to the Regional Trial Court (RTC), sitting as a SAC. We said: "It would subvert [the] 'original and exclusive' jurisdiction of the RTC for the DAR to vest original jurisdiction in compensation cases to administrative officials and make the RTC an appellate court for the review of administrative decisions."[6]

Four years later, on January 18, 2000, the Court, also through the Second Division, and again through Justice Vicente V. Mendoza, decided *Veterans Bank* where we declared that there is "nothing contradictory" in Section 50 which grants to the DAR primary jurisdiction over all matters involving the implementation of agrarian reform (including questions of just compensation) and Section 57 which grants the RTC "original and exclusive jurisdiction" over all petitions for the determination of just compensation and prosecution of criminal offenses under RA 6657.[7]

In 2007, the Court, in *Land Bank of the Philippines v. Suntay*[8] (*Suntay*), seemed to revert to its 1996 ruling relative to the 15-day period. There, the Court, through its First Division, nullified the Order of the RTC dismissing a petition for judicial determination of just compensation on the ground that the same was filed beyond the 15-day period under the DARAB Rules. While acknowledging that there was no conflict between Sections 50 and 57 of RA 6657, it nevertheless held that applying the 15-day period under the DARAB Rule converts the RTC/SAC's original and exclusive jurisdiction to determine just compensation into an appellate one. Citing the ruling in *Republic,* it declared that this is "contrary to Section 57 and therefore would be void."[9]

Within a year, the Court *en banc* promulgated *Martinez* and sought to "resolve the conflict in the rulings of the Court x x x."[10] There, we held:

> [W]e now declare herein, for the guidance of the bench and the bar, that the better rule is that stated in *Philippine Veterans Bank*, reiterated in *Lubrica* and in the August 14, 2007 Decision in this case. Thus, *while a petition for the fixing of just compensation with the SAC is not an appeal*

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5 G.R. No. 122256, October 30, 1996, 263 SCRA 758.
6 *Id.* at 765.
7 *Supra* at 145.
8 G.R. No. 157903, October 11, 2007, 535 SCRA 605.
9 *Id.* at 617.
10 *Supra* at 783.

> *from the agrarian reform adjudicator's decision but an original action, the same has to be filed within the 15-day period stated in the DARAB Rules; otherwise, the adjudicator's decision will attain finality.* This rule is not only in accord with law and settled jurisprudence but also with the principles of justice and equity. Verily, a belated petition before the SAC, *e.g.*, one filed a month, or a year, or even a decade after the land valuation of the DAR adjudicator, must not leave the dispossessed landowner in a state of uncertainty as to the true value of his property.[11] (Emphasis in the original.)

Less than a year ago, on August 2, 2016, the Court *en banc* **unanimously** affirmed *Martinez* in *Limkaichong*. Speaking through Justice Lucas P. Bersamin, the Court said:

> In all of the foregoing rulings of the Court as well as in subsequent ones, it could not have been overemphasized that the determination of just compensation in eminent domain is a judicial function. However, the more recent jurisprudence uphold the preeminence of the pronouncement in *Philippine Veterans Bank* to the effect that the parties only have 15 days from their receipt of the decision/order of the DAR within which to invoke the original and exclusive jurisdiction of the SAC; otherwise, the decision/order attains finality and immutability.[12]

More recently, the Court's Third Division, through Justice Bienvenido L. Reyes in *Mateo v. Department of Agrarian Reform*[13] (*Mateo*), affirmed the DAR's primary jurisdiction when, citing our *en banc* decision in *Alfonso v. Land Bank of the Philippines*[14] (*Alfonso*), it held that "*administrative remedies cannot be dispensed with and direct resort to the SAC is proscribed.*"[15]

Now, it is proposed that we abandon these rulings, specifically, our rulings in *Veterans Bank*, *Martinez*, and *Limkaichong*.[16] This proposal is grounded on two reasons: First, the principle, espoused in *Export Processing Zone Authority v. Dulay*[17] (*Dulay*), that the determination of just compensation is a judicial function. Following this principle, the grant by Congress to the DAR of the primary jurisdiction to preliminary determine just compensation would be "contrary to the letter and spirit of the Constitution."[18] Second, Section 11, Rule XIII of the DARAB Rules of Procedure, which contains the 15-day period, has no statutory basis. This

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11 *Id.* at 783.
12 *Supra* note 4.
13 G.R. No. 186339, February 15, 2017.
14 G.R. No. 181912, November 29, 2016.
15 As will be later discussed, however, *Mateo* is an exception to the strict application of the 15-day period rule. In view of the specific circumstances obtaining in the case, the Court in *Mateo* sustained the landowner's recourse to the SAC prior to the termination of the proceedings before the DAR adjudicator.
16 *Ponencia*, p. 14.
17 G.R. No. L-59603, April 29, 1987, 149 SCRA 305.
18 *Ponencia*, p. 14.

provision, which allows the DAR's otherwise preliminary determination of just compensation to attain finality unless brought to the SAC within fifteen (15) days, allegedly reduces the SAC's exclusive and original jurisdiction to determine just compensation, contrary to the intent of Congress.

I disagree. For reasons already stated at the outset, I believe that the better and more prudent course of action would be to affirm, not reverse, *Veterans Bank*, *Martinez*, and *Limkaichong,* as well as all the cases affirming them.

I shall elaborate on my reasons *in seriatim*.

A

With all due respect, the arguments (supporting abandonment of previous rulings) are a reprise of issues already considered and, in my view, correctly decided. In fact, this Court had already *twice* rejected the core premise of both arguments, namely, that the determination of just compensation is a judicial function which cannot be transferred, even preliminarily, to the DAR.

The first time was 25 years ago in *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*[19] (*Association*), where the Court resolved the numerous constitutional challenges raised against RA 6657. Among other objections, many landowners invoked *Dulay* and argued that entrusting to the DAR the manner of fixing just compensation violated the judicial function. This argument was unanimously rejected by the Court, which distinguished the provisions of RA 6657 from *Dulay* and upheld the constitutionality of the grant of primary jurisdiction to the DAR. We quote:

> Objection is raised, however, to the manner of fixing the just compensation, which it is claimed is entrusted to the administrative authorities in violation of judicial prerogatives. Specific reference is made to Section 16(d) x x x.
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> x x x
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> A reading of the aforecited Section 16(d) will readily show that it does not suffer from the arbitrariness that rendered the challenged decrees constitutionally objectionable. Although the proceedings are described as summary, the landowner and other interested parties are nevertheless allowed an opportunity to submit evidence on the real value of the property. But more importantly, the determination of the just compensation by the DAR is not by any means final and conclusive upon the landowner or any other interested party, for Section 16(f) clearly provides:

[19] G.R. No. 78742, July 14, 1989, 175 SCRA 343.

> Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.
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> The determination made by the DAR is only *preliminary* unless accepted by all parties concerned. Otherwise, the courts of justice will still have the right to review *with finality* the said determination in the exercise of what is admittedly a judicial function.[20]

Only last year, the Court, in *Alfonso,* had second occasion to weigh in on the constitutionality of the grant of primary jurisdiction of the DAR. The constitutionality of the DAR's power to come up with a basic formula to determine just compensation was put in issue by some members of the Court on the ground that, under *Dulay*, the determination of just compensation is a judicial function which cannot *constitutionally* be entrusted to an administrative agency. As in *Association*, the Court again rejected this argument. In *Alfonso*, we explained why the grant to the DAR of primary jurisdiction to determine just compensation *is* constitutional and does not limit or deprive the courts of their judicial power:

> *C. Primary jurisdiction and the judicial power/function to determine just compensation*
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> Section 1, Article VIII of the 1987 Constitution provides that "judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable."
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> The right of a landowner to just compensation for the taking of his or her private property is a legally demandable and enforceable right guaranteed by no less than the Bill of Rights, under Section 9, Article III of the Constitution. The determination of just compensation in cases of eminent domain is thus an actual controversy that calls for the exercise of judicial power by the courts. This is what the Court means when it said that "[t]he determination of 'just compensation' in eminent domain cases is a judicial function."
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> Before RA 6657, the courts exercised the power to determine just compensation under the Rules of Court. This was true under RAs 1400 and 3844 and during the time when President Marcos in Presidential Decree No. 1533 attempted to impermissibly restrict the discretion of the courts, as would be declared void in *EPZA v. Dulay (EPZA)*. RA 6657 changed this process by providing for preliminary determination by the DAR of just compensation.
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> **Does this grant to the DAR of primary jurisdiction to determine just compensation limit, or worse, deprive,**

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[20] *Id.* at 380-382.

> **courts of their judicial power? We hold that it does not. There is no constitutional provision, policy, principle, value or jurisprudence that places the determination of a justiciable controversy beyond the reach of Congress' constitutional power to require, through a grant of primary jurisdiction, that a particular controversy be first referred to an expert administrative agency for adjudication, subject to subsequent judicial review.**
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> **In fact, the authority of Congress to create administrative agencies and grant them preliminary jurisdiction flows not only from the exercise of its plenary legislative power, but also from its constitutional power to apportion and diminish the jurisdiction of courts inferior to the Supreme Court.**[21]
> (Emphasis supplied. Citations omitted.)

To reiterate, I believe that we should affirm, not reverse, existing jurisprudential precedents as they were soundly, and correctly, decided. For me, I would rather affirm the settled doctrine and return to what Justice Minita Chico-Nazario calls the "becoming virtue of predictability."[22]

B

The doctrine of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established) enjoins adherence to judicial precedents. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument. Commonly considered as a key feature of a common-law system, this principle has been transplanted into the hybrid legal system that is the Philippines.[23] It is considered doctrine[24] and embodied in Article 8 of the Civil Code of the Philippines which provides that "judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines."[25]

Under the doctrine of *stare decisis*, when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same, even though the parties may be different.[26] Thus, until authoritatively abandoned, such decisions assume the same authority as the

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[21] *Supra* note 14.

[22] *Pepsi-Cola Products Philippines, Incorporated v. Pagdanganan*, G.R. No. 167866, October 16, 2006, 504 SCRA 549, 564.

[23] Theodore Te, *Stare (In(Decisis): Some Reflections on Judicial Flip-Flopping in* League of Cities v. COMELEC *and* Navarro v. Ermita, 85 PHIL. L.J. 785, 785-789 (2011) [hereinafter "STARE (IN)DECISIS"].

[24] See Emiliano Lazaro, *The Doctrine of Stare Decisis and the Supreme Court of the Philippine Islands*, 15 PHIL. L.J. 404 (1937); Randy J. Kozel, Stare Decisis *as Judicial Doctrine*, 67 WASH.& LEE L. REV. 411 (2010).

[25] See *Lazatin v. Desierto*, G.R. No. 147097, June 5, 2009, 588 SCRA 285, 293.

[26] *Cabaobas v. Pepsi-Cola Products Philippines, Inc.*, G.R. No. 176908, March 25, 2015, 754 SCRA 325, 341, citing *Philippine Carpet Manufacturing Corporation v. Tagyamon*, G.R. No. 191475, December 11, 2013, 712 SCRA 489, 500.

statute itself and necessarily become, to the extent that they are applicable, the criteria which control the actuations not only of those called upon to decide thereby but also of those duty-bound to enforce obedience thereto.[27] This doctrine has assumed such value in our judicial system that the Court has consistently ruled that abandonment of this doctrine must be based only on strong and compelling reasons; otherwise, the becoming virtue of predictability which is expected from this Court would be immeasurably affected and the public's confidence in the stability of solemn pronouncements diminished.[28] For that reason, courts can only be justified in setting aside this doctrine upon showing that circumstances attendant in a particular case override the great benefits derived by our judicial system from the doctrine of *stare decisis.*[29]

In *Martinez*, the Court *en banc* sought to clarify the confusion brought about by its "conflicting pronouncements"[30] in *Republic, Veterans Bank,* and *Suntay*. In affirming its ruling in *Veterans Bank,* the Court laid down a clear, unequivocal and straightforward rule, which it reaffirmed in *Limkaichong*, and which the Third Division most recently applied in *Mateo*.

Martinez is important not only because of **what** we said, but because of **how** we said it. The Court *en banc* there candidly admitted the existence of a "conflict" in its rulings. This is a remarkable admission from a Court obligated to speak with one voice. While there is only **one** Supreme Court, the fact that it acts through three divisions bears formidable pressure on the efficacy of its decision-making processes, which are expected to be designed to prevent conflicts. Whenever such conflicts occur, they reflect on the integrity and legitimacy of the Court's internal processes. In such cases, the Court *en banc* must then intervene to lay down the correct rule for the bench and bar to follow. This is precisely what the Court sought to achieve in *Martinez*. Preserving the integrity of the decision-making processes of the Court demands that there be prompt and strict compliance not only by the bench and the bar, but also by the Court itself.

For the Court to reverse itself once more needlessly opens us to criticism that we flip-flop in our decisions. I refer to the public disapprobation that greeted the Court's changes of views in *League of Cities v. Commission on Elections*[31] and *Navarro v. Ermita*[32] which caused the Court to be accused of engaging in the practice of **"stare (in)decisis."**[33] These cases have etched into the public mind an uncalled-for association between the word "flip-flop" and the decision-making process of the

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[27] *Pepsi-Cola Products Philippines, Incorporated v. Pagdanganan, supra* at 564.

[28] *Lazatin v. Desierto, supra* at 294-295, citing *Pepsi-Cola Products Philippines, Incorporated v. Pagdanganan, supra* at 294-296.

[29] *Lazatin v. Desierto, supra* at 295.

[30] *Supra* note 2 at 781.

[31] G.R. No. 176951, 571 SCRA 263, November 18, 2008; 608 SCRA 636, December 21, 2009; 628 SCRA 819, August 24, 2010; February 15, 2011; April 12, 2011; June 28, 2011, 652 SCRA 798.

[32] G.R. No. 180050, February 10, 2010, 612 SCRA 131; May 12, 2010, 620 SCRA 529; April 12, 2011, 648 SCRA 400.

[33] *See* STARE (IN)DECISIS, *supra* note 23.

Court.[34] We should be mindful that in these days of heightened accountability of public servants, the *manner* in which the Court has "changed its mind" is as, if not more, important than the *substance* of what we say.

C

The great benefits derived by our judicial system from the doctrine of *stare decisis*[35] notwithstanding, I agree with Justice Malcolm that the Court cannot adhere to "idolatrous reverence to precedent" because "more than anything else is that the court should be right" and not "perpetuate error."[36] This case confronts the Court with the delicate task of deciding whether to affirm or abandon precedent in the context of land reform, one of the most important and radical social justice legislation of our time.

Although the Court has yet to adopt hard and fast rules to determine when to abandon doctrine, we can derive some guidance from jurisprudence. We have, for example, abandoned doctrine when: (1) authorities are abundant and conflicting, but the Court needs to break new ground with a decision that rests on a strong foundation of reason and justice;[37] (2) it is not wise to subordinate legal reason to case law and doing so will perpetuate error;[38] (3) an existing ruling is in violation of the law in force;[39] (4) the precedent is "alien to the conscience of the present generation of Filipinos who cut their teeth on the Bill of Rights," and where the dire consequences predicted in the precedent "have not come to pass;"[40] and (5) the legal landscape has radically shifted.[41]

In 2006, Chief Justice Reynato Puno, in his dissenting opinion in *Lambino v. Commission on Elections*,[42] called for the adoption of the four-pronged *stare decisis* test formulated by the United States Supreme Court in *Planned Parenthood of Southeastern Pennsylvania v. Casey*[43] (*Planned Parenthood*). *Planned Parenthood* would later be cited with approval by Justice Eduardo Nachura in *Ting v. Velez-Ting*,[44] which upheld the doctrine in *Republic v. Court of Appeals and Molina*.[45] The four-pronged test of *Planned Parenthood* is as follows:

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34 *Id.*

35 See *Lazatin v. Desierto*, *supra* at 295-296.

36 *Philippine Trust Co. v. Mitchell*, 59 Phil. 30, 36 (1933).

37 *Villaflor v. Summers*, 41 Phil. 62 (1920), on whether physical examination of a pregnant woman violates the constitutional right against self-incrimination.

38 *Philippine Trust Co. v. Mitchell*, *supra*, overruling previous case law in favor of an interpretation that the Insolvency Law takes precedence over the Civil Code provisions on insolvency.

39 *Tan Chong v. Secretary of Labor*, 79 Phil. 249 (1947), substituting the principle in citizenship of *jus soli* in favor of *jus sanguinis*.

40 *Ebranilag v. The Division Superintendent of Schools of Cebu*, G.R. No. 95770, March 1, 1993, 219 SCRA 256, overruling the 30-year old flag salute law decision.

41 *Carpio-Morales v. Court of Appeals (Sixth Division)*, G.R. No. 217126, November 10, 2015, 774 SCRA 431, overturning the 1959 condonation case of Pascual decided under the 1935 Constitution.

42 G.R. No 174153, October 25, 2006, 505 SCRA 160, 311-312.

43 505 U.S. 833 (1992).

44 G.R. No. 166562, March 31, 2009, 582 SCRA 694.

45 G.R. No. 108763, February 13, 1997, 268 SCRA 198.

> Rather, when this Court reexamines a prior holding, its judgment is customarily informed by a series of prudential and pragmatic considerations designed to test the consistency of overruling a prior decision with the ideal of the rule of law, and to gauge the respective costs of reaffirming and overruling a prior case. Thus, for example, we may ask whether the rule has proven to be intolerable simply in defying practical workability; whether the rule is subject to a kind of reliance that would lend a special hardship to the consequences of overruling and add inequity to the cost of repudiation; whether related principles of law have so far developed as to have left the old rule no more than a remnant of abandoned doctrine; or whether facts have so changed, or come to be seen so differently, as to have robbed the old rule of significant application or justification.
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> So in this case we may enquire whether *Roe's* central rule has been found unworkable; whether the rule's limitation on state power could be removed without serious inequity to those who have relied upon it or significant damage to the stability of the society governed by it; whether the law's growth in the intervening years has left *Roe's* central rule a doctrinal anachronism discounted by society; and whether *Roe's* premises of fact have so far changed in the ensuing two decades as to render its central holding somehow irrelevant or unjustifiable in dealing with the issue it addressed.[46] (Citations omitted.)

Even as it formulated the four-pronged *stare decisis* test in *Planned Parenthood,* the U.S. Supreme Court warned about the "terrible price" that would be paid by the court's legitimacy were it to engage in the unprincipled overruling of doctrine:

> [T]he Court cannot buy support for its decisions by spending money and, except to a minor degree, it cannot independently coerce obedience to its decrees. The Court's power lies, rather, in its legitimacy, a product of substance and perception that shows itself in the people's acceptance of the Judiciary as fit to determine what the Nation's law means and to declare what it demands.
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> The underlying substance of this legitimacy is of course the warrant for the Court's decisions in the Constitution and the lesser sources of legal principle on which the Court draws. **That substance is expressed in the Court's opinions, and our contemporary understanding is such that a decision without principled justification would be no judicial act at all.** But even when justification is furnished by apposite legal principle, something more is required. Because not every conscientious claim of principled justification will be accepted as such, the

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46 *Supra* at 854-855.

> justification claimed must be beyond dispute. The Court must take care to speak and act in ways that allow people to accept its decisions on the terms the Court claims for them, as grounded truly in principle, not as compromises with social and political pressures having, as such, no bearing on the principled choices that the Court is obliged to make. Thus, **the Court's legitimacy depends on making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the Nation.**
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> There is, first, a point beyond which **frequent overruling would overtax the country's belief in the Court's good faith. Despite the variety of reasons that may inform and justify a decision to overrule, we cannot forget that such a decision is usually perceived (and perceived correctly) as, at the least, a statement that a prior decision was wrong. <u>There is a limit to the amount of error that can plausibly be imputed to prior Courts.</u>** If that limit should be exceeded, disturbance of prior rulings would be taken as evidence that justifiable reexamination of principle had given way to drives for particular results in the short term. The legitimacy of the Court would fade with the frequency of its vacillation.[47] (Emphasis and underscoring supplied.)

Combining the guideposts, tests, and cautionary warnings of both the Court and the U.S. Supreme Court, it is my view that the Decisions in *Veterans Bank*, *Martinez*, and *Limkaichong*, including the cases reaffirming them, should not be abandoned. There is no need to break new ground on the question of whether applying the 15-day period (to elevate the DAR adjudicator's decision to the SAC) is the better rule, or whether the jurisdiction of the SAC is original and not appellate. *Association*, *Veterans Bank*, *Martinez*, *Limkaichong*, and *Alfonso* have laid to rest these and related issues, and on sound legal ground. There is no showing, claim, or clamor from bench, bar, or academe of a change of "facts on the ground" that have made implementation of the 15-day rule intolerably unworkable or impractical. The Congress need not incur the added burden of huge interest costs because cases where there is an equitable need to relax the *Veterans Bank* and *Martinez* doctrine have proven to be so few and far in between. Neither has the legal landscape radically shifted. Land reform, as mandated by the Constitution, continues to be a priority of the Government. Finally, no related principle of the law on just compensation has so far developed as to make *Association* and *Martinez* remnants of abandoned doctrine.

On the contrary, the Court in *Alfonso* clarified how the judicial function and settled principles of administrative law (such as the doctrine of primary jurisdiction) jointly effectuate legislation such as the land reform law. If, in *Alfonso,* we deigned to trust the DAR with fixing the formula for

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[47] *Id.* at 865-866.

just compensation, subject only to the Court's approval of meritorious deviations, I cannot see why we refuse to trust the DAR's judgment that fifteen (15) days is a reasonable period to challenge its finding before the SAC. As stated, I do not see strong and compelling reasons to abandon them as to, in the words of Justice Diosdado M. Peralta, "override the great benefits derived by our judicial system from the doctrine of *stare decisis*."[48]

II

The *ponencia* advances that, since RA 6657 does not provide for a period within which the landowner must bring the DAR's determination of just compensation to the SAC, the Civil Code provisions on prescription should apply. Considering further that the payment of just compensation is an obligation created by law, the *ponencia* concludes that the action for judicial determination of just compensation should be brought within ten years, under Article 1144(2) of the Civil Code,[49] from the time the landowner receives the notice of coverage.[50] Justice Leonen, on the other hand, argues that an action to determine just compensation for expropriated land is an imprescriptible constitutional right which "cannot [be] trump[ed]" by a statutorily defined period.[51]

I disagree. This is not only proscribed under the system of separation of powers, it is, in my view, simply bad policy. The proposed disposition would: (a) subvert the legislative design for the comprehensive agrarian reform program which vests the DAR not only with primary jurisdiction over agrarian-related controversies but also the power to issue rules and regulations to carry out the objectives and purpose of RA 6657; (b) violate existing substantive and procedural laws; and (c) defeat the Government's interest in paying just compensation nearest to the time of taking.

A

As earlier discussed, the Court in *Association* and *Alfonso* has already explained why the grant to the DAR of primary jurisdiction *is* constitutional and does not limit or deprive the courts of their judicial power.

Nevertheless, and despite the Court's clear pronouncements, we are again confronted with virtually the same issue. It thus seems to me that maybe the pith of the objection against the DAR's participation rests on the view that since the determination of just compensation is a *judicial* function, only a *judicial* court can (originally and in the first instance) decide the

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[48] *Lazatin v. Desierto*, *supra* note 25, at 295-296

[49] CIVIL CODE, Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:
(1) Upon a written contract;
(2) Upon an obligation created by law;
(3) Upon a judgment. (Emphasis supplied.)

[50] *Ponencia*, p. 14-15.

[51] Separate Opinion of Justice Leonen, p. 2.

matter after an evidentiary hearing conducted under *judicial* rules of court, such that it is *judicial* trier of fact that observes the demeanor and credibility of witnesses. Any other process would impermissibly degrade the exercise of the judicial function to determine just compensation.

I submit, however, that **original jurisdiction** simply means "*the power of the Court to take judicial cognizance of a case instituted for judicial action for the first time under conditions provided by law.*"[52] **Original jurisdiction vested in a court does not preclude preliminary determination by an administrative agency.** Neither does the fact that a specific issue has been passed upon first by a tribunal other than a court make cognizance of that matter by a court appellate. On the other hand, "appellate jurisdiction" means "the authority of a court *higher in rank* to re-examine the final order or judgment of a *lower* court which tried the case now elevated for judicial review."[53]

Thus, in *Yamane v. BA Lepanto Condominium Corporation*,[54] the Court was asked to rule on the issue of whether the RTC, in deciding an appeal taken from a denial of a protest by a local treasurer under Section 195 of the Local Government Code, exercises original or appellate jurisdiction. Applying the definition of Justice Florenz D. Regalado, the Court there ruled:

> [T]he review taken by the RTC over the denial of the protest by the local treasurer would fall within that court's original jurisdiction. **In short, the review is the initial judicial cognizance of the matter.** Moreover, labeling the said review as an exercise of appellate jurisdiction is inappropriate, since the denial of the protest is not the judgment or order of a lower court, but of a local government official.[55] (Emphasis supplied.)

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[52] FLORENZ D. REGALADO, I REMEDIAL LAW COMPENDIUM 4 (2005). (Emphasis and underscoring supplied.)

[53] *Id.*

[54] G.R. No. 154993, October 25, 2005, 474 SCRA 258.

[55] *Id.* at 268. The Court noted that Rule 43 of the 1997 Rules of Civil Procedure provides for the appellate jurisdiction of the Court of Appeals over decisions rendered by administrative agencies and quasi-judicial tribunals. However, the Court explained that Batas Pambansa Blg. 129 expressly provides such appellate jurisdiction of the CA. B.P 129 does not confer such appellate jurisdiction on the RTCs over rulings made by non-judicial entities. The Court explained:

> The stringent concept of original jurisdiction may seemingly be neutered by Rule 43 of the 1997 Rules of Civil Procedure, Section 1 of which lists a slew of administrative agencies and quasi-judicial tribunals or their officers whose decisions may be reviewed by the Court of Appeals in the exercise of its appellate jurisdiction. However, the basic law of jurisdiction, *Batas Pambansa Blg.* 129 (B.P. 129), ineluctably confers appellate jurisdiction on the Court of Appeals over final rulings of quasi-judicial agencies, instrumentalities, boards or commission, by explicitly using the phrase "appellate jurisdiction." The power to create or characterize jurisdiction of courts belongs to the legislature. While the traditional notion of appellate jurisdiction connotes judicial review over lower court decisions, it has to yield to statutory redefinitions that clearly expand its breadth to encompass even review of decisions of officers in the executive branches of government.

Similarly, the filing with the SAC of a petition for judicial determination of just compensation, which essentially assails the DAR's preliminary determination, is the first time that a *judicial* court will take cognizance of the matter. The preliminary determination made by the DAR is by no means a judgment or order of a lower court which would make its review by the RTC, sitting as SAC, appellate.

It is also my view, as explained in my Concurring Opinion in *Limkaichong*, that the grant of primary jurisdiction does not deprive nor limit the court's jurisdiction to determine just compensation. As we have explained in *Alfonso*, the Congress had, in fact, guaranteed the full and heightened exercise of this original and exclusive jurisdiction by allowing for a *de novo* review of the DAR's preliminary determination:

> In case of a proper challenge, SACs are actually empowered to conduct a *de novo* review of the DAR's decision. Under RA 6657, a full trial is held where SACs are authorized to (1) appoint one or more commissioners, (2) receive, hear, and retake the testimony and evidence of the parties, and (3) make findings of fact anew. In other words, in exercising its **exclusive and original jurisdiction** to determine just compensation under RA 6657, the SAC is possessed with exactly the same powers and prerogatives of a Regional Trial Court (RTC) under Rule 67 of the Revised Rules of Court.
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> In such manner, the SAC thus conducts a more *exacting* type of review, compared to the procedure provided either under Rule 43 of the Revised Rules of Court, which governs appeals from decisions of administrative agencies to the Court of Appeals, or under Book VII, Chapter 4, Section 25 of the Administrative Code of 1987, which provides for a default administrative review process. In both cases, the reviewing court decides based on the record, and the agency's findings of fact are held to be binding when supported by substantial evidence. The SAC, in contrast, retries the whole case, receives new evidence, and holds a full evidentiary hearing.
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> In this light, until and unless this Court's ruling *in Association of Small Landowners* is reversed, a becoming modesty and respectful courtesy towards a co-equal branch

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> Yet significantly, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities. (*Id.* at 268-269.)

> of government demand that the Court defer to the Congress' grant of primary jurisdiction to the DAR.[56]

I feel that the Court should welcome, not begrudge, the Congress' decision to allow the DAR adjudicator to participate in the process. The adjudicator's contributions are designed to aid the judicial method. It is summary and time bound. There is likewise no claim that the DAR's participation delays or corrupts the process. It is not in our place to question the wisdom of this decision of the Congress because, as earlier explained, the Congress had arranged for *judicial* courts to have full *de novo* review of the DAR's contributions.

In similar fashion, I submit that we should also respect the legislative design to give the DAR the authority to issue rules and regulations to carry out the objects and purposes of RA 6657, including the provision of a 15-day period within which to bring its *preliminary* determination of just compensation before the SAC.

The Congress, under Sections 49, 51, and 57 of RA 6657, said:

> Sec. 49. *Rules and Regulations.* - The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.
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> Sec. 51. *Finality of Determination.* — Any case or controversy before [the DAR] shall be decided within thirty (30) days after it is submitted for resolution. Only one (1) motion for reconsideration shall be allowed. Any order, ruling or decision shall be final after the lapse of fifteen (15) days from receipt of a copy thereof.
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> Sec. 57. *Special Jurisdiction.* — The Special Agrarian Courts shall have original and exclusive jurisdiction over all petitions for the determination of just compensation to landowners, and the prosecution of all criminal offenses under this Act. The Rules of Court shall apply to all proceedings before the Special Agrarian Courts, unless modified by this Act.
>
> The Special Agrarian Courts shall decide all appropriate cases under their special jurisdiction within thirty (30) days from submission of the case for decision.

Section 51 incorporates into RA 6657 the rule of finality and immutability of judgments, a staple feature of our procedural due process system. It should, however, not be read alone or in isolation to mean that the decision of the DAR adjudicator peremptorily becomes final after the lapse

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[56] *Supra*, note 4.

of the 15-day period. Such a literal reading will run counter to the mandate of Section 16 that the landowner may "bring" the decision to the proper court, *i.e.*, the SAC. As Justice Vicente V. Mendoza explained in *Veterans Bank*, even if a law provides that the decision of the DAR is final and unappealable, resort to the courts cannot be foreclosed on the theory that courts are the guarantors of the legality of administrative action.[57]

In addition, while it is true that the Congress did not specify, under Section 57, the period within which the dissatisfied landowner can "bring" the DAR decision to the proper court, this omission is not fatal because the DAR was vested with the power to "issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes" of RA 6657.[58] This, to me, includes the authority to adopt "a uniform rule of procedure to achieve a just, expeditious and inexpensive determination of every action or proceeding before [the DAR]."[59] Provisions like Section 49 are a staple feature of laws governing the creation of administrative agencies.[60] The Court should reconcile the provisions of RA 6657 together, rather than construe them to be at war with each other. It is a cardinal rule in statutory construction that the whole and every part of a statute must be considered to produce a harmonious whole:

> The cardinal rule, after all, in statutory construction is that the particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. And courts should adopt a construction that will give effect to every part of a statute, if at all possible. *Ut magis valeat quam pereat* or that construction is to be sought which gives effect to the whole of the statute—its every word.[61] (Citations omitted.)

The constitutionality of the exercise by the DAR of its power to promulgate the 1994 DARAB Rules of Procedure, or the reasonableness of the 15-day period it provided under Rule XIV, is not impugned in this case. Nevertheless, given the challenges raised in this case, permit me to say a few words.

In *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*,[62] the Court, through Justice Isagani R. Cruz, said:

> [I]t is true that legislative discretion as to the substantive contents of the law cannot be delegated. What can be

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[57] *Supra* note 1, at 147. See also *San Miguel Corporation v. Secretary of Labor*, G.R. No. L-39195, May 16, 1975, 64 SCRA 56.

[58] RA 6657, Sec. 49.

[59] RA 6657, Sec. 50.

[60] See, *e.g.*, LABOR CODE, Art. 5.

[61] *Inding v. Sandiganbayan*, G.R. 143047, July 14, 2004, 434 SCRA 388, 403, citing RUBEN E. AGPALO, STATUTORY CONSTRUCTION 197 (1995).

[62] G.R. No. L-76633, October 18, 1988, 166 SCRA 533.

> delegated is the discretion to determine *how* the law may be enforced, not *what* the law shall be. The ascertainment of the latter subject is a prerogative of the legislature. This prerogative cannot be abdicated or surrendered by the legislature to the delegate.
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> x x x
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> With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."
>
> With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. **These regulations have the force and effect of law.**[63] (Emphasis supplied.)

Here, the Congress laid down substantive law when it provided that the DAR adjudicator's decision must be subjected to judicial review. How this may be enforced, *e.g.*, the period within which the decision must be brought to the SAC for judicial review, is a matter which the Congress may validly delegate to the DAR through the promulgation of rules of procedure.

The law must, of course, provide for adequate guidelines or limitations to map out the boundaries of the delegate's authority to prevent the delegation from "running riot."[64] The power of the delegate cannot be unlimited; there should exist a sufficient standard to guide the delegate in the exercise of its authority.[65]

With respect to the DAR's rule-making power, Congress, under Section 49 of RA 6657, provided that the rules to be promulgated should "carry out" RA 6657 and ensure the "just, expeditious and inexpensive determination" of actions before the DAR. Thus and by authority of Section 49, the DAR promulgated the 1994 DARAB Rules of Procedure. Under Rule XIII, Section 11 of the DARAB Rules, it is provided:

> Sec. 11. *Land Valuation and Preliminary Determination and Payment of Just Compensation.* The decision of the Adjudicator on land valuation and preliminary determination and payment of just compensation shall not be appealable to the Board but **shall be brought directly to**

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63 *Id.* at 542-545.
64 *Id.* at 543.
65 *Id.* at 545.

> **the Regional Trial Courts designated as Special Agrarian Courts within fifteen (15) days from receipt of the notice thereof.** Any party shall be entitled to only one motion for reconsideration. (Emphasis and underscoring supplied.)

To my mind, the 15-day rule carries out and enforces the substantive mandate to subject the DAR decision to judicial review. Not only is this period reasonable, it is also just and promotes the expeditious review of the DAR's adjudication. It is within the range provided by law, regulation, and the Rules of Court governing the periods respecting the judicial review of administrative decisions.[66] The Administrative Code, which provides for a default uniform procedure for the judicial review of decisions of administrative agencies, similarly mandates that agency decisions become final and executory fifteen (15) days from receipt by the party, unless within that period an administrative appeal or judicial review has been perfected. Notably, judicial review shall also be made via a petition for review filed within a period of fifteen (15) days from receipt of judgment.[67]

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[66] For example, with respect to a case before the Civil Service Commission, Rule 13, Section 70 of the Revised Rules on Administrative Cases in the Civil Service provides that "[a] party may elevate a decision of the Commission before the CA by way of a petition for review under Rule 43 of the [Rules of Court]." Rule 43, Section 4, in turn, provides that a party has **fifteen (15)** days to appeal counted from notice of award, judgment, final order, resolution, or date of last publication, if publication is required. Additionally, as regards cases before the Construction Industry Arbitration Commission, Rule 18, Section 18.2 of CIAC Revised Rules of Procedure Governing Construction Arbitration provides that "[a] petition for review from a final award may be taken by any of the parties within **fifteen (15) days** from receipt thereof in accordance with the provisions of Rule 43 of the Rules of Court."

[67] ADMINISTRATIVE CODE, Book VII, Chapter 3, Sec. 14. *Decision.* – Every decision rendered by the agency in a contested case shall be in writing and shall state clearly and distinctly the facts and the law on which it is based. The agency shall decide each case within thirty (30) days following its submission. The parties shall be notified of the decision personally or by registered mail addressed to their counsel of record, if any, or to them.

Sec. 15. *Finality of Order.* – The decision of the agency shall become final and executory fifteen (15) days after the receipt of a copy thereof by the party adversely affected unless within that period an administrative appeal or judicial review, if proper, has been perfected. One motion for reconsideration may be filed, which shall suspend the running of the said period.

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Sec. 23. *Finality of Decision of Appellate Agency.* – In any contested case, the decision of the appellate agency shall become final and executory fifteen (15) days after the receipt by the parties of a copy thereof.

x x x

Sec. 25. *Judicial Review.* –

(1) Agency decisions shall be subject to judicial review in accordance with this chapter and applicable laws.
(2) Any party aggrieved or adversely affected by an agency decision may seek judicial review.
(3) The action for judicial review may be brought against the agency, or its officers, and all indispensable and necessary parties as defined in the Rules of Court.
(4) Appeal from an agency decision shall be perfected by filing with the agency within fifteen (15) days from receipt of a copy thereof a notice of appeal, and with the reviewing court a petition for review of the order. Copies of the petition shall be served upon the agency and all parties of record. The petition shall contain a concise statement of the issues involved and the grounds relied upon for the review, and shall be accompanied with a true copy of the order appealed from, together with copies of such material portions of the records as are referred to therein and other supporting papers. The petition shall be under oath and shall show, by stating the specific material dates, that it was filed within the period fixed in this chapter.
(5) The petition for review shall be perfected within fifteen (15) days from receipt of the final administrative decision. One (1) motion for reconsideration may be allowed. If the motion is denied, the movant shall perfect his appeal during the remaining period for appeal reckoned from receipt of the resolution of denial. If the decision is reversed on reconsideration, the appellant shall have fifteen (15) days from receipt of the resolution to perfect his appeal.

I would imagine that if the DAR were to dare to provide for a ten (10) or thirty (30) year period within which to bring the DAR adjudicator's decision to the SAC, its act would surely be overturned by the Court for being that of a "roving commission" exercising "profligate and invalid" delegation of legislative powers whose authority should be "canalized within banks to keep it from overflowing."[68] I see no reason why the same considerations should not apply to us.

Furthermore, this Court, in at least three cases involving the implementation and interpretation of RA 6657, has previously validated the DAR's exercise of its rule-making functions under Section 49. There is no reason to treat the 1994 DARAB Rules of Procedure any differently.

In *Land Bank of the Philippines v. Celada*[69] (*Celada*), the Court, citing *Land Bank of the Philippines v. Banal*[70] (*Banal*) held that the DAR basic formula on just compensation was issued pursuant to its rule-making power to carry out the object and purposes of RA 6657. Thus:

> It is elementary that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.[71] (Citations omitted.)

In *Alfonso*, the Court rejected arguments from some members of the Court to overturn *Celada* or *Banal*.[72]

In *Roxas & Co., Inc. v. Court of Appeals*,[73] the Court recognized that Section 16 of RA 6657, providing for identification of the land as among the first steps in the compulsory acquisition of property, is "silent on how the identification process must be made." The Court, on grounds of due process, upheld the DAR's authority to "fill in this gap" by issuing Administrative Order (AO) No. 12, series of 1989, which set the operating procedure in the

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(6) The review proceeding shall be filed in the court specified by statute or, in the absence thereof, in any court of competent jurisdiction in accordance with the provisions on venue of the Rules of Court.

(7) Review shall be made on the basis of the record taken as a whole. The findings of fact of the agency when supported by substantial evidence shall be final except when specifically provided otherwise by law. (Emphasis supplied.)

[68] *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*, *supra* note 63, at 543, citing *Ynot v. Intermediate Appellate Court*, G.R. No. L-74457, March 20, 1987, 148 SCRA 659, 674

[69] G.R. No. 164876, January 23, 2006, 479 SCRA 495.

[70] G.R. No. 143276, July 20, 2004, 434 SCRA 543.

[71] *Landbank v. Celada*, *supra* at 507.

[72] See Dissenting Opinion of Justice Velasco and Concurring Opinion of Justice Leonen.

[73] G.R. No. 127876, December 17, 1999, 321 SCRA 106.

identification of such lands.[74] The Court would affirm the authority of the DAR to "fill in" the Section 16 gap in *Department of Agrarian Reform v Robles.*[75]

The wide acceptance of the doctrine of primary jurisdiction grew out of the recognition that the Court does not know it all or does not always know better. While this view may perhaps not be acceptable to some, a becoming modesty should, in my view, lead the Court to breathe harmonious meaning to all the words used by the Congress for a workable RA 6657. We should respect, rather than subvert, the legislative purpose to make the DAR and the courts partners in implementing land reform. I quote again my *ponencia* in *Alfonso*:

> We must be reminded that the government (through the administrative agencies) and the courts are not adversaries working towards different ends; our roles are, rather, complementary. As the United States Supreme Court said in *Far East Conference v. United States*:
>
> > x x x [C]ourt and agency are not to be regarded as wholly independent and unrelated instrumentalities of justice, each acting in the performance of its prescribed statutory duty without regard to the appropriate function of the other in securing the plainly indicated objects of the statute. **Court and agency are the means adopted to attain the prescribed end, and, so far as their duties are defined by the words of the statute, those words should be construed so as to attain that end through coordinated action.** Neither body should repeat in this day the mistake made by the courts of law when equity was struggling for recognition as an ameliorating system of justice; neither can rightly be regarded by the other as an alien intruder, to be tolerated if must be, but never to be encouraged or aided by the other in the attainment of the common aim.
>
> The Congress (which wrote Section 17 and funds the land reform land acquisition), the DAR (author of DAR AO No.5 [1998] and implementer of land reform), and the LBP (tasked under EO 405 with the valuation of lands) are partners to the courts. All are united in a common responsibility as instruments of justice and by a common aim to enable the farmer to "banish from his small plot of earth his insecurities and dark resentments" and "rebuild in it the music and the dream." Courts and government agencies must work together if we are to achieve this shared objective.[76] (Emphasis in the original. Citations omitted.)

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74 *Id.* at 130.

75 G.R. No. 190482, December 9, 2015, 777 SCRA 141, 170-171.

76 *Alfonso v. Land Bank of the Philippines*, *supra* note 14.

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We should also not confuse the application of substantive law with matters of procedure. The provisions of the Civil Code on prescription of actions are substantive law provisions. The provision of a period within which to bring an administrative agency's finding before the courts, on the other hand, concerns only procedure. Thus, while we do not dispute that a landowner's right to just compensation for the taking of his private property is a legally demandable and enforceable right guaranteed by no less than the Bill of Rights,[77] the *manner* or *mode* of enforcing this substantive right is a matter governed by procedural law.

Otherwise stated, the *process* for determining just compensation in an expropriation proceeding (including finality of decisions, and the finality of judgments of the RTCs or the SACs, and periods and manner of appeals) is a procedural matter governed by the Rules of Court or the applicable special law, in this case, RA 6657. The *justness* of the amount of compensation, on the other hand, is determined by *substantive* law, *i.e.*, the Constitution,[78] Section 17 of RA 6657[79] and the Decisions of the Court.[80]

Let me elaborate.

Rule 67 of the Rules of Court provides for the procedure for the *traditional* mode of expropriation. Expropriation is a special civil action, which only the Government can initiate.

Expropriation proceedings comprise two stages: (1) the determination of the authority of the Government to exercise the power of eminent domain and the propriety of its exercise in the context of the surrounding facts; and (2) the determination of the just compensation for the property sought to be taken.[81] Expropriation proceedings are commenced with the filing of a verified complaint by the plaintiff government entity or agency before the RTC.[82] This first stage ends, if not in a dismissal of the action, with an order of condemnation declaring that the Government has a lawful right to take the property sought to be condemned, for a public use or purpose.[83] In the second stage, the RTC, with the aid of commissioners, ascertains the compensation due the landowner.[84]

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77 CONSTITUTION, Art. III, Sec. 9. Private property shall not be taken for public use without just compensation. See *Alfonso v. Land Bank of the Philippines*, *supra*.

78 *Id.*

79 See also RA 6657, Sec. 16.

80 See *Alfonso v. Land Bank of the Philippines*, *supra*.

81 *Municipality of Cordova, Province of Cebu v. Pathfinder Development Corporation*, G.R. No. 205544, June 29, 2016, 795 SCRA 190, 199.

82 RULES OF COURT, Rule 67, Sec. 1.

83 *Municipality of Cordova, Cebu v. Pathfinder Development Corporation*, *supra* at 199.

84 RULES OF COURT, Rule 67, Secs. 5, 6, and 7.

The determination of just compensation is thus an integral part of the special civil action of expropriation. There is only one action, that of expropriation. The Rules of Court do not allow the landowner to assert his claim for just compensation against the Government in a new or separate proceeding. To do so will allow for the splitting of the Government's action and defeat the objective of Rules of Court to secure the just, speedy, and inexpensive disposition of **each** action or proceeding.

That the landowner is obliged to litigate his claim for just compensation in the same expropriation proceeding is plain from the text of Section 3 of Rule 67:

> Sec. 3. *Defenses and objections.* – If a defendant has no objection or defense to the action or the taking of his property, he may file and serve a notice of appearance and a manifestation to that effect, specifically designating or identifying the property in which he claims to be interested, within the time stated in the summons. Thereafter, he shall be entitled to notice of all proceedings affecting the same.
>
> If a defendant has any objection to the filing of or the allegations in the complaint, or any objection or defense to the taking of his property, he shall serve his answer within the time stated in the summons. The answer shall specifically designate or identify the property in which he claims to have an interest, state the nature and extent of the interest claimed, and adduce all his objections and defenses to the taking of his property. No counterclaim, cross-claim or third-party complaint shall be alleged or allowed in the answer or any subsequent pleading.
>
> A defendant waives all defenses and objections not so alleged but the court, in the interest of justice, may permit amendments to the answer not to be made not later than ten (10) days from the filing thereof. **However, <u>at the trial</u> of the issue of just compensation whether or not a defendant has previously appeared or answered, he may present evidence as to the amount of the compensation to be paid for his property**, and he may share in the distribution of the award. (Emphasis and underscoring supplied.)

Section 6[85] of the same Rule further limits the time within which the landowner must present his evidence, *i.e.*, he must do so at any time the

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[85] RULES OF COURT, Rule 67, Sec. 6. *Proceedings by commissioners.* – Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. **<u>Evidence may be introduced by either party before the commissioners</u> who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case.** The commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of

commissioners call for the reception of evidence and before the commissioners submit their report.[86] The landowner is given ten (10) days to object to the commissioner's report.[87] Thereafter, the RTC acts on the commissioners' report[88] and renders judgment.[89]

The landowner may contest the RTC's determination of just compensation in an appeal or later, by way of a petition for review with the Court of Appeals or this Court, following the procedure and the reglementary periods provided by Rules 41 and 45 of the Rules of Court, respectively. Clearly, Rule 67 provides for one continuous process for the determination of just compensation once an eminent domain proceeding has been initiated by Government. It leaves absolutely no room for the landowner, or the Government, for that matter, to abort, bypass or short-circuit the process, much less postpone the finality of a judgment to some future time.

Before the passage of RA 6657, courts exercised the power to determine just compensation under the traditional mode of expropriation under Rule 67 of the Rules of Court as outlined above. This process changed with RA 6657, which sought to implement an ambitious agrarian reform program covering an estimated 7.8 million hectares of land for acquisition and redistribution to landless farmers and farmworker beneficiaries.[90]

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its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken. (Emphasis and underscoring supplied.)

[86] RULES OF COURT, Rule 67, Sec. 7. *Report by commissioners and judgment thereupon.* – The court may order the commissioners to report when any particular portion of the real estate shall have been passed upon by them, and may render judgment upon such partial report, and direct the commissioners to proceed with their work as to subsequent portions of the property sought to be expropriated, and may from time to time so deal with such property. The commissioners shall make a full and accurate report to the court of all their proceedings, and such proceedings shall not be effectual until the court shall have accepted their report and rendered judgment in accordance with their recommendations. **Except as otherwise expressly ordered by the court, such report shall be filed within sixty (60) days from the date the commissioners were notified of their appointment, which time may be extended in the discretion of the court. Upon the filing of such report, the clerk of the court shall serve copies thereof on all interested parties, with notice that they are allowed ten (10) days within which to file objections to the findings of the report, if they so desire.** (Emphasis and underscoring supplied.)

[87] RULES OF COURT, Rule 67, Sec. 8. *Action upon commissioners' report.* – **Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith**, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may recommit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken. (Emphasis and underscoring supplied.)

[88] *Id.*

[89] RULES OF COURT, Rule 67, Sec. 13. *Recording judgment, and its effect.* – The judgment entered in expropriation proceedings shall state definitely, by an adequate description, the particular property or interest therein expropriated, and the nature of the public use or purpose for which it is expropriated. **When real estate is expropriated, a certified copy of such judgment shall be recorded in the registry of deeds of the place in which the property is situated, and its effect shall be to vest in the plaintiff the title to the real estate so described for such public use or purpose.** (Emphasis supplied.)

[90] *Alfonso v. Land Bank of the Philippines*, *supra* note 14.

As we explained in our landmark holding in *Association*, RA 6657 does not deal with the traditional exercise of the power of eminent domain. It deals, rather, with a "revolutionary kind of expropriation." It is revolutionary because of its scale: it affects all private agricultural lands whenever found and of whatever kind as long as they are in excess of the maximum retention limits allowed their owners. Likewise, it is intended for the benefit not only of a particular community or a small segment of the population but of the entire Filipino nation.[91]

Consequently, to achieve some measure of uniformity in both process and result, the Congress saw fit to delegate to the DAR the preliminary determination of just compensation, under the procedure outlined in Section 16 of RA 6657. This is a departure from the traditional mode of eminent domain under Rule 67. Even then, except for this innovation, the procedure provided in Sections 16, 51, 54, and 57, similarly provide for one seamless and continuous process of expropriation. From the moment the SAC takes over, the Rules of Court apply. The Congress did not create a new substantive right or procedure which grants landowners a period of ten (10) or thirty (30) years from notice of coverage to "bring" the issue of just compensation before the courts.

To put it more bluntly, the Court has no authority to substitute validly promulgated procedural reglementary periods applicable to an expropriation proceeding with Civil Code's substantive law provisions on prescriptive periods. Under the principle of separation of powers, only the Congress has the authority to legislate law. Furthermore, for the Court to grant the landowner, by judicial fiat, such periods to initiate determination of just compensation *outside* of the expropriation proceeding initiated by the Government, is also unjust. It is well to remember that in *Martinez*, this Court upheld the 15-day rule provided under the DARAB Rules because it is consistent with "the principles of justice and equity." We held that a "belated petition before the SAC, *e.g.*, one filed a month, or a year, or even a decade after the land valuation of the DAR adjudicator, must not leave the dispossessed landowner in a state of uncertainty as to the true value of his property."[92]

In *Martinez*, it was the Government which belatedly filed a petition with the SAC. Now the proverbial shoe is on the other foot. Respondent Dalauta filed his claim for just compensation with the SAC **four years** from his receipt of the notice of coverage. It would be unjust to leave the Government in a state of uncertainty as to the amount it should pay as just compensation, especially when the Government is ready, able and willing to pay upon final judgment.

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[91] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, *supra* note 19 at 386.

[92] *Land Bank of the Philippines v. Martinez*, *supra* note 2 at 783.

More, the Government has a strong public interest in paying just compensation nearest to the time of taking as this avoids incurring the unnecessary financial burden of paying interest. Since the landowner is entitled to the payment of interest where there is delay in the payment of just compensation, delay (which is deemed to be an effective forbearance on the part of the State) entitles the landowner to the payment of interest.[93] The interest due is not insubstantial. It is computed at the rate of 12% *per annum* from the time of taking until June 30, 2013. Thereafter, or beginning July 1, 2013, until fully paid, interest shall be at six percent (6%) *per annum.*[94]

I submit that the governmental interest is founded on the Constitution. It is doctrinal that the payment of just compensation be made "within a reasonable time from the taking." Without "prompt payment," compensation cannot be considered just.[95] The landowner who is immediately deprived of his land should not be made to wait for a decade or more before actually receiving the amount necessary to cope with his loss.[96] The prompt payment doctrine, however, protects the Government as well. The right of the landowner to receive prompt payment is subject to the correlative obligation of the landowner to promptly accept the just compensation to be paid by the Government as determined in a final judgment.

In the ordinary course of events, a landowner would want to be made "financially whole" as soon as possible. A contrary view will only allow landowners to arbitrage the prevailing low-interest regime against the judicially-imposed legal rates of 12% or 6%. Worse, landowners can wager that the Court in some future time will redefine its jurisprudence on the computation of interest.[97] Either way, I believe that burdening the Government with this additional financial cost would be unconstitutional because it is an unnecessary, excessive, extravagant, and unconscionable expenditure.

III

I vote to deny the petition insofar as it questions the jurisdiction of the SAC. I also vote to deny the petition insofar as it will uphold the SAC's determination of just compensation. Instead, I submit that the case should be remanded for proper computation of just compensation.

A

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93 *Mateo v. Department of Agrarian Reform*, *supra* note 13.

94 *Id.*

95 *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, Feburary 6, 2007, 514 SCRA 537, 557-558.

96 *Id.*

97 See *Secretary of the Department of Public Works and Highways v. Tecson*, G.R. No. 179334, July 1, 2013, 756 SCRA 389, (Leonen, *J.*, *dissenting*), where Justice Leonen argued for the adoption of present value in the computation of fair market value.

There is no need to abandon or reverse *Martinez* and *Veterans Bank*; we need only to apply the exceptions which can be found in existing jurisprudence. The Court, in a number of cases, has recognized a fair and equitable way to deal with exceptions to the application of *Martinez* or *Veterans Bank.*

In *Secretary of Department of Public Works and Highways v. Spouses Tecson,*[98] a case involving the government's acquisition of right of way, the Court sustained the right of a landowner to just compensation despite the lapse of 54 years from the time the government entered into the property in 1940 without the benefit of expropriation proceedings and payment of just compensation. Because of the failure of the respondents-landowners to question the absence of expropriation proceedings for a long period of time, they were deemed to have waived the ability to question the power of the government to expropriate or the public use for which the power was exercised.[99] What was left to respondents was the right of compensation.[100]

In *Mateo*, which involved compulsory acquisition under RA 6657, the Court sustained the landowner's right to bring, independently from the expropriation proceedings, an action for determination of just compensation before the SAC due to the official inaction on the part of appropriate government agencies. There, although the LBP and the DAR entered the property of the Mateos sometime in 1994, payment in agrarian reform bonds was deposited only in 1996 and 1997. Furthermore, when the Mateos filed their petition before the SAC, no summary proceedings have yet been initiated by the DAR to make further valuation. The Court thus held that the DAR's delay and inaction had unjustly prejudiced the Mateos; precluding them from filing a complaint before the SAC would only result in an injustice.

In *Limkaichong*, the Court sustained a landowner's petition before the SAC for determination of just compensation filed more than two months from the challenged DARAB valuation. There, we held that we "cannot fairly and properly" bar petitioner's complaint for the determination of just compensation on the basis of the 15-day rule in *Veterans Bank* because:

> [t]he prevailing rule at the time she filed her complaint x x x was that enunciated in *Republic v. Court of Appeals* on October 30, 1996. The pronouncement in *Philippine Veterans Bank* was promulgated on January 18, 2000 when the trial was already in progress in the RTC. At any rate, it would only be eight years afterwards that the Court *en banc* unanimously resolved the jurisprudential conundrum through its declaration in *Land Bank v. Martinez* that the better rule was that enunciated in *Philippine Veterans*

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98 *Id.*
99 *Id.* at 409-410.
100 *Id.*

> *Bank*. The Court must, therefore, prospectively apply *Philippine Veterans Bank*. x x x[101]

Here, respondent Dalauta filed his petition before the SAC on February 8, 2000, or only 21 days after the promulgation of the decision in *Veterans Bank* and nearly eight years before our resolution in *Martinez*. The CA, which issued its Decision on September 18, 2009, barely 10 months after *Martinez*, made absolutely no mention of *Martinez*, relying mainly on the 2007 case of *Suntay*. I submit that, under these circumstances, justice and equity dictate that we apply *Veterans Bank* and *Martinez* prospectively, and grant respondent Dalauta the same liberality extended to the landowner in *Limkaichong*.

B

In his petition for the determination of just compensation filed with the SAC, respondent Dalauta alleged that his land is "fully cultivated and wholly planted x x x with falcata trees" wherein he derived a net income of ₱350,000.00.[102] He thus averred that just compensation for his property should be computed using the formula under paragraph II of DAR AO No. 6, series of 1992, that is, *LV = (CNI x 0.9) + (MV x 0.1)*. Applying this formula, respondent computes just compensation for his property at ₱2,639,566.90.[103]

The LBP, on the other hand, argues that the valuation of respondent's land should be determined using the formula for idle lands, that is, *LV = MV x 2*. Under this formula, respondent would only receive a total of ₱192,782.59 for his 25.2160-hectare property.[104] The SAC, however, essentially agreed with respondent Dalauta, computing just compensation for his property as follows:

> Since the Capitalized Net Income in this case is available, the formula to be used is:
>
> **LV = (CNI x 0.9) + (MV x 0.1)**
>
> Whence:
>
> LV = (₱350,000/.12 x 0.9) + (₱145,570 x 0.1)
> = (₱2,916,666.67 x 0.9) + ([₱14,557.00])
> = ₱2,625,000.00 + ₱14,577.00
> = ₱2,639,557.00 plus ₱100,000.00 for the farmhouse[105]

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101 *Supra*, note 4.
102 CA *rollo*, p. 16.
103 *Id.*
104 *Rollo*, p. 70.
105 *Id.* at 148.

The CA affirmed the SAC's computation, rejecting the LBP's claim that it used the formula *LV = MV x 2*, under A.3 of DAR AO No. 6, series of 1992, due to the unavailability/inapplicability of CNI data. According to the CA, "[r]ecords show that the non-availability of the CNI data was due to [LBP]'s failure or omission to exert any effort to obtain the same during ocular inspection or investigation of the subject land x x x."[106] It deleted, however, the ₱100,000.00 award for the farmhouse, finding that "such improvement was inexistent during the taking of the subject land."[107]

I submit that both the CA and the SAC erred in applying the formula under DAR AO No. 6, series of 1992. **Just compensation for respondent Dalauta's land should instead be computed based on the formula provided under DAR-LBP Joint Memorandum Circular No. 11, series of 2003** (JMC No. 11 (2003)). This Memorandum Circular, which provides for the *specific* guidelines for properties with standing commercial trees, explains:

> The Capitalized Net Income (CNI) approach to land valuation assumes that there would be uniform streams of future income that would be realized in perpetuity from the seasonal/permanent crops planted to the land. **In the case of commercial trees (hardwood and soft wood species), however, only a <u>one-time income</u> is realized when the trees are due for harvest. The regular CNI approach in the valuation of lands plated to commercial trees would therefore <u>not</u> apply.**[108] (Emphasis and underscoring supplied.)

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[106] *Id.* at 24.

[107] *Id.* at 25.

[108] This much was also explained during trial by the LBP witness Alex G. Carido, as noted in the assailed CA Decision:

> Petitioner's next witness was Alex G. Carido (Carido), the Agrarian Operation Specialist of its Cagayan de Oro branch, whose function, among others, is to compute the value of a land offered by a landowner to the DAR, using the guidelines provided by the latter. He recalled that the valuation of respondent's property was made in September 1994 pursuant to a Memorandum Request to Value the Land addressed to petitioner's President.
>
> Carido testified that the entries in the Claims Valuation and Processing Forms were the findings of their credit investigator. He explained that the data for Capitalized Net Income was not applicable then, as the land's produce was only for family consumption, and that since the property had no income, they used the formula Land Value (LV) = Market Value (MV) x 2, from DAR AO No. 6, series of 1992, in computing the total value of the subject land, where MV is the Market Value per Tax Declaration based on the Tax Declaration issued in 1994.
>
> x x x
>
> On cross-examination, Carido admitted that there are different ways of computing the Land Value under DAR AO No. 6, and that to determine which of the formulas is applicable for computing the land value of a particular property, the data gathered in the Field Investigation Report are to be considered. He maintained that he used the formula Land Value = Market Value x 2 in computing the valuation of the subject land because the data for Capitalized Net Income (CNI) and/or Comparable Sales [CS] were not given to him.
>
> During re-cross examination, **when asked why no CNI was provided in the investigation report, Carido stated that <u>CNI is</u>**

During the proceedings before the SAC, respondent Dalauta testified that he derived a net income of ₱350,000.00 in 1993 from the sale to Norberto Fonacier (Fonacier) of falcata trees grown in the property. Respondent presented the following evidence to bolster his claim of income: (1) Agreement between respondent Dalauta and Fonacier over the sale of falcata trees;[109] (2) copy of deposit slip of amount of ₱350,000.00;[110] and (3) Certification from Allied Bank as to fact of deposit of the amount of ₱350,000.00 on November 15, 1993.[111]

This sale of falcata trees by respondent, however, appears to be a one-time transaction. Apart from this lone transaction, respondent did not allege to have derived any other income from the property prior to receiving the Notice of Coverage from the DAR in February 1994. Even respondent, in the Comment he filed before the CA, admits as much.[112] For this reason, I submit that his property would be more appropriately covered by the formula provided under JMC No. 11 (2003).

JMC No. 11 (2003) provides for several valuation procedures and formulas, depending on whether the commercial trees found in the land in question are harvestable or not, naturally grown, planted by the farmer-beneficiary or lessee or at random. It also provides for the valuation procedure depending on when the commercial trees are cut (*i.e.*, while the land transfer claim is pending or when the landholding is already awarded to the farmer-beneficiaries).

Respondent alleges to have sold all the falcata trees in the property to Fonacier in 1993.[113] After Fonacier finished harvesting in January 1994, respondent claims that, per advice of his lawyer, he immediately caused the replanting of falcata trees.[114] Thus, per the Schedule of Harvestable Age of Different Tree Species of JMC No. 11 (2003),[115] at the time respondent received the Notice of Coverage in 1994, the falcata trees planted in his property were **not** yet of harvestable age. The applicable formula for purposes of valuing respondent's property, at least those parts planted to falcata trees, would therefore be:

$$\mathbf{LV = (MV \times 2) + CDC}$$

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relevant only if there is production from the property, and that while there was corn production in the subject land during ocular inspection in 1994, the same was for family consumption only, hence, CNI will not apply. He went on to say that the net income and/or production of the land within twelve (12) months prior to the ocular inspection shall be considered in determining the land value. *Id.* at 69-71. (Emphasis and underscoring supplied.)

109 Records, pp. 13, 172.
110 *Id.* at 172, 174.
111 *Id.* at 172, 175.
112 *Rollo*, p. 317.
113 Records, p. 172.
114 *Id.*
115 Annex E, JMC No. 11 (2003).

Where:

LV = Land Value
MV = Market Value of the land which shall be based on the applicable Unit Market Value (UMV) classification of idle land
CDC = Cumulative Development Cost of "not yet harvestable" trees incurred by the [landowner] from land preparation up to the date of receipt of [claimfolder] by LBP for processing.

The MV is computed using the formula:

MV = UMV x LAF x RCPI

Where:

UMV = Unit Market Value
LAF = Location Adjustment Factor
RCPI = applicable Regional Consumer Price Index

The CDC of "not yet harvestable" commercial trees is determined using the following formula:

CDC = CDC per Tree x Number of Not Yet Harvestable Trees

Considering, however, the dearth of evidence on record to establish values for the factors included in the above formula, I vote that the case be remanded to the SAC for further proceedings.

C

The records show that the LBP submitted in evidence a Schedule of Base Unit Market Values for Agricultural Lands and Plants respecting the area where respondent's property is found.[116] Under this Schedule, base market values for falcata/rubber lands are indicated, depending on its class (1, 2, or 3) and nature (level or on hillside). Since there is no evidence on record as to the class and nature of the property in question, I submit that the case be remanded to receive evidence on the same, for purposes of determining the proper UMV. For the same reason, the SAC, on remand, should also receive evidence as to the applicable LAF and RCPI for the relevant period (1994).

In addition, under JMC No. 11 (2003), development cost data are primarily sourced from the landowner, to be validated against his accounting records (*i.e.*, ledgers, receipts, *etc.*) and interview with farmworkers and laborers. If the landowner's records are unavailable or cannot be validated, development cost data can be obtained from: (1) the Community

[116] *Rollo*, pp. 194, 213.

Environment and Natural Resources Office (CENRO) or the Provincial Environment and Natural Resources Office (PENRO) of the Department of Environment and Natural Resources (DENR); or, in the absence of this data, (2) the schedule of development, maintenance and protection cost for each tree species provided under Annex A of JMC No. 11 (2003).

Here, respondent, on cross-examination, claims that his property was planted with about 2,500 falcata trees per hectare.[117] Apart from this, however, there is no other evidence on record to support or validate respondent's claim. Neither is there any evidence in the records from either respondent or the CENRO/PENRO as to the development cost incurred in the planting of the falcata trees. JMC No. 11 (2003), on the other hand, provides that "[i]f the [landowner]'s actual number of trees per hectare exceeds that of the standard tree density of **1,667 trees/hectare (2m x 3m)**, the [landowner]'s CDC shall be computed based on the CDC of 1,667 trees/hectare."[118] Under the Schedule of Development, Maintenance and Protection Cost provided in JMC No. 11 (2003), the CDC/Hectare for Year 1 is ₱22, 377.00. Thus, granting that 21 hectares of respondent's property were planted to falcata trees, the CDC for the same would thus be ₱22,377.00/hectare x 21 hectares or a total of ₱469,917.00.

Applying all the data so far available, just compensation for respondent's property should be computed thus:

LV = (MV x 2) + CDC

Where:

MV = UMV + LAF + RCPI (all still to be determined by the SAC after it has received evidence on the same)

CDC = ₱469,917.00

I realize that JMC No. 11 (2003) does not appear to be applicable to the facts of this case insofar as it provides that it covers only "all land transfer claims involving lands planted to commercial trees **whose Memorandum of Valuation have not yet been forwarded to DAR as of date of effectivity of this Joint Memorandum Circular** x x x," I submit, however, that applying the above formula to compute just compensation for respondent's land would be the most equitable course of action under the circumstances. Without JMC No. 11 (2003), respondent's property would have to be valued using the formula for idle lands, the CNI and CS factors not being applicable. Following this formula, just compensation for respondent's property would only amount to **₱225,300.00**, computed as follows:

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[117] *Id.* at 68.

[118] *Supra* note 116. Emphasis supplied.

LV = MV x 2

Where:

LV = Land Value
MV = Market Value per Tax Declaration*
- For the area planted to corn, ₱7,740.00/hectare[119]
- For idle/pasture land, ₱3,890/hectare[120]

Thus:

For the 4 hectares planted to corn:

LV = (₱7,740/hectare x 4 hectares) x 2
= **₱61,920.00**

For the 21 hectares of idle/pasture land:

LV = (₱3,890/hectare x 21 hectares) x 2
= **₱163,380.00**

Total Land Value = ₱61,920.00 + ₱163,380.00
= **₱225,300.00**

All the foregoing premises considered, I vote that the petition be **DENIED** and the case **REMANDED** to the SAC for purposes of computing just compensation in accordance with JMC No. 11 (2003) and this Opinion.

FRANCIS H. JARDELEZA
Associate Justice

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CLERK OF COURT, EN BANC
SUPREME COURT

[119] Per 1994 Tax Declaration. Records, p. 7.
[120] *Id.*