

**[DAR JOINT DAR-DENR-LRA-NCIP
ADMINISTRATIVE ORDER NO. 01, S. 2012,
January 25, 2012]**

CLARIFYING, RESTATING AND INTERFACING THE RESPECTIVE JURISDICTIONS, POLICIES, PROGRAMS AND PROJECTS OF THE DEPARTMENT OF AGRARIAN REFORM (DAR), DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), LAND REGISTRATION AUTHORITY (LRA) AND THE NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) IN ORDER TO ADDRESS JURISDICTIONAL AND OPERATIONAL ISSUES BETWEEN AND AMONG THE AGENCIES

I. Preliminary Provisions

SECTION 1. Prefatory Statement. Pursuant to the constitutional framework of national unity and development, RA No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988, as amended, and R.A. No. 8371, otherwise known as the Indigenous Peoples Rights Act (IPRA) of 1997, were enacted. The CARL and IPRA are considered as two landmark legislations because they seek to address social justice and equity issues affecting the farmers and indigenous peoples, respectively, who constitute the vast majority of the poor in the country. These "reform" laws have opened the windows of opportunity for them to have control over basic assets and natural resources for their sustenance and survival. For the farmers, the CARL is a golden opportunity for them to own the land they till, "xxx to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands." For the indigenous cultural communities/indigenous peoples (ICCs/IPs), the IPRA recognizes and promotes ownership of their ancestral domains (ADs) and ancestral lands (ALs) and their rights to control, manage and develop the same.

On the other hand, Commonwealth Act (CA) 141 as amended, otherwise known as the Public Land Act. states that all lands of the public domain are under the exclusive jurisdiction of the DENR except those placed by law and/or by Executive Issuances under the jurisdiction of other government agencies.

In the registration of Land Titles issued by DENR and DAR in accordance with the aforementioned laws, the provisions of Act 496 (Land Registration Act), as amended by PD 1529 (Property Registration Decree) shall apply. Land Titles issued by NCIP are, however, directed by IPRA to be registered with the appropriate register of deeds.

In the course of their implementation, these laws have, however, created not only issues or overlapping jurisdiction between the DAR, DENR, and NCIP but also operational issues and conflicting claims in the implementation of their respective

programs, which must be seriously addressed.

Accordingly, this guideline is issued to address said issues of overlapping jurisdiction, operational issues and conflicting claims by and among the aforementioned agencies.

SECTION 2. Scope. — This Order shall apply to the coverage of lands and/or processing by DAR, DENR and NCIP and registration with LRA of Land Titles embracing lands or areas which are contentious or potentially contentious as enumerated in Section 12 hereof.

SECTION 3. Definition of Terms. — For purposes of this Order, the following terms and concepts are herein defined as follows:

- a. **Alienable and Disposable (A and D) lands** refer to lands of the public domain which have been released and proclaimed as such by the President from the mass of unclassified public lands, or reclassified as such from other forms of classification through an Act of Congress. For purposes of their administration and disposition A and D lands are sub-classified as follows: i) agricultural; ii) residential, commercial, industrial or for similar productive purposes; iii) educational, charitable, or other similar purposes; or iv) reservations for town sites and for public and quasi-public uses.
- b. **Ancestral Domain (AD)** Subject to Section 56 of the IPRA, refers to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or proposed by ICCs/ IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/ corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/ IPs but from which they traditionally has access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are nomadic and/or shifting cultivators. **(Section 3 (a) of IPRA)**
- c. **Ancestral Land (AL)** Subject to Section 56 of the IPRA, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/ IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership including, continuously, to the present except when interrupted by war, force majeure or

displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individual/corporations, including, but not limited to residential lots, rice terraces or paddies, private forests, swidden farms and tree lots. **(Section 3 (b) of IPRA)**

- d. **Certificate of Ancestral Domain Title (CADT)** refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with R.A. No. 8371.
- e. **Certificate of Ancestral Land Title (CALT)** refers to a title formally recognizing the rights of ownership of ICCs/IPs over their ancestral land.
- f. **Certificate of Land Ownership Award (CLOA)** is the proof of ownership of lands awarded to an agrarian reform beneficiary under R.A. No. 6657, as amended, which contains the restrictions and conditions for such ownership and must be registered in the Register of Deeds.
- g. **Certification of Non-Overlap** refers to the certification to be issued separately by DAR, DENR, and LRA prior to the approval by the NCIP of the CADT/CALT application after compliance with the requirements and processes mentioned under Section 13 hereof.

The Certification is issued after projection and verification by said agencies and upon determination that there is no overlapping of titled properties or approved survey plans with the AD/AL survey plan, or should there be overlapping, it is issued after segregation/exclusion of the overlapped titled properties or approved survey plans from the survey plan and the technical description of the AD/AL.

- h. **Common and Public Welfare and Services** is synonymous with public use, public interest and public benefit. It is the general concept of meeting public need or public exigency.

It is not confined to actual use by the public in its traditional sense. This narrow meaning has since been rejected in favor of a broader concept which includes any use that is of utility, advantage or productivity for the benefit of the public generally.

- i. **Emancipation Patent (EP)** is the proof of ownership of lands awarded to an agrarian reform beneficiary under P.D. No. 27 (Operation Land Transfer) or Executive Order No. 228 which contains the restrictions and conditions for such ownership and must be registered in the register of deeds.
- j. **Free and Prior Informed Consent (FPIC)** is the consensus of all members of the ICCs/IPs which is determined in accordance with their respective customary laws and practices that is free from any

external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the plan/program/project/activity, in a language and process understandable to the community. The FPIC is given by the concerned ICCs/IPs upon signing of the Memorandum of Agreement (MOA) containing the conditions/requirements, benefits as well as penalties of agreeing parties as basis of consent.

k. **Land Titles** are instruments of ownership issued pursuant to the implementation of the Public Land Act (C.A. 141), Property Registration Decree (P.D. 1529), Comprehensive Agrarian Reform Law (R.A. 6657) and Indigenous Peoples Rights Act (R.A. 8371).

l. **Native Title** refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish conquest.

m. **Notice of Coverage (NOC)** is a written notice wherein the landowner is formally notified by DAR that his/her landholding is to be placed under the coverage of the Comprehensive Agrarian Reform Program (CARP) which includes therein, among others, the right of the landowner to choose within a prescribed period his/her allowable retention area and to nominate his/her child/ren as preferred beneficiary/ies under the CARP.

n. **Vested Right** is a complete, well-consummated right that cannot be divested without the consent of the person to whom it belongs; one that is fixed or established and no longer open to controversy. It is absolute and unconditional, the exercise of which no obstacle exists.

It also refers to a property right which has become fixed and established, and is no longer open to doubt or controversy; an immediately fixed right of present or future enjoyment as distinguished from an expectant or contingent right.

II. Jurisdiction of DENR, DAR and NCIP

SECTION 4. Jurisdiction of DENR. — The DENR has jurisdiction over all lands of the public domain (i.e., agricultural lands, forest or timber lands, national parks and mineral lands) except those placed by law and/or other issuances under the operational jurisdiction of other government agencies (e.g., Joint DAR-DENR MC No. 9, Series of 1995; Joint DAR-DENR MC No. 14 and 19, Series of 1997).

It is responsible for the conservation, management, development and proper use of the country's environment and natural resources as well as the licensing and regulation of all natural resources as may be provided by existing laws.

SECTION 5. Jurisdiction of DAR. — Pursuant to Section 4 of Republic Act 6657 as clarified in Joint DAR-DENR MC No. 9, Series of 1995, and Joint DAR-DENR MC Nos. 14 and 19, Series of 1997, the following lands are under the jurisdiction of DAR:

- a. All alienable and disposable lands of the public domain devoted to or suitable to agriculture which were:
 1. proclaimed by the President as DAR resettlement projects and placed under the administration of DAR for distribution to qualified beneficiaries under CARP;
 2. placed by law under the jurisdiction of DAR; and
 3. previously proclaimed for the use of Government departments, agencies and instrumentalities and subsequently turned over to DAR pursuant to E.O. 407 Series of 1990, as amended by E.O. 448 and 506 Series of 1992.
- b. All lands of the public domain in excess of the specific area 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.

For purposes of simplifying the above categories, these landholdings can still be sub-classified as follows: a) titled properties; b) resettlement areas and reservations; and c) untitled private agricultural lands.

a. Titled Properties

These shall include all agricultural landholdings covered with certificates of title and registered under the Land Registration Act (Act 496) or under the Property Registration Decree (PD No. 1529) or those landholdings administratively titled before 1987 under the Public Land Act (CA No. 141), as amended, and which are in excess of the retention limit.

b. Resettlement Areas and Reservations

These shall include all public lands, i.e., resettlement areas and reservations, which have been proclaimed (by way of Presidential Proclamations) for DAR, other government agencies, and for government financial institutions and were subsequently turned-over to DAR for coverage under CARP pursuant to Executive Order No. 407, Series of 1990, as amended by Executive Order No. 448, Series of 1991.