

3 former agrarian chiefs back Sumilao farmers

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MANILA, Philippines -- Three former agrarian reform secretaries have expressed support for the cause of the farmers who marched for two months from Sumilao, Bukidnon, to Manila to reclaim the 144-hectare land now being converted into a hog farm.

In a press conference held on Wednesday at the farmers' makeshift tent in front of the Department of Agrarian Reform central office in Quezon City, former secretaries Ernesto Garilao, Florencio "Butch" Abad and Jose Mari Ponce called on the incumbent, Nasser Pangandaman, to listen to the farmers, act in accordance with the law, and revoke the conversion order to prepare for the redistribution of the contested property.

Former Undersecretaries Gerry Bulatao and Hector Soliman, former Assistant Secretary Cliff Burkeley, former legal affairs director Joy Casis and former DAR-Region 10 director Charlito Manlupig added their voices to the call of Garilao, Abad and Ponce.

Abad first expressed support for the farmers as early as Saturday.

"We call upon our colleagues in the [DAR] to uphold the letter and spirit of the rules on conversion, and in the process strengthen the institution and increase its legitimacy," the group said in a joint statement read by Garilao.

The group also called for the immediate issuance of a cease-and-desist order, saying it would "provide all parties the proper environment to seek constructive solutions to this knotty problem in Sumilao."

Garilao was the agrarian reform secretary who issued an order in 1994 disapproving the conversion of the land, as petitioned by original owner Norberto Quisumbing. Quisumbing asked to convert the land for agro-industrial use then. He subsequently appealed to Malacañang, which approved his development plan in 1996.

Bulatao had worked under Garilao and Abad, Soliman under Abad, and Burkeley, Manlupig and Casis under Garilao.

Only Ponce, who held the agrarian reform portfolio in 2004, is still with the government, being the current chief executive officer of the Cagayan Special Economic Zone and Freeport.

In an interview later at his office, Pangandaman said he "was not pressured at all" by his predecessors' expression of support for the farmers.

He said he would rule on the case "based on merits" and at the "soonest" possible time.

He welcomed the group's call for the contending parties to explore "alternative modes of resolving the conflict" to ensure "a win-win solution to the case."

Pangandaman said the contending parties could resort to "alternative dispute resolution" (ADR), the mechanics of which were laid down last year in Executive Order No. 523.

However, he said, his office could not initiate alternative resolution proceedings because of the pending case.

The farmers maintain that the new land owner, San Miguel Foods Inc. (SMFI), failed to undertake the conversion of the property into an agribusiness park, as originally promised by Quisumbing in 1996.

Quisumbing sold the property to SMFI in 2002, two years before the end of the five-year conversion period stipulated by DAR rules.

The former agrarian reform executives said the case for the immediate revocation of the conversion order was based "very clearly" on DAR rules.

They said a conversion order was issued to an applicant as an exception to the general rule that agricultural land should be covered by agrarian reform.

"[T]herefore, if the specifics of the conversion order are not complied with within the time frame of five years, the property reverts back to the coverage of agrarian reform. It is also very clear that noncompliance with the strict rules on conversion requires its immediate revocation and distribution to the farmer-beneficiaries," they said.

Also present to express support were former Bukidnon representative Nereus Acosta, who translated the joint statement into Cebuano for the farmers' benefit.

Abad's wife, former Batanes representative Dina Abad, and Edmundo Garcia, a member of the 1986 Constitutional Commission and a major author of the social justice provisions of the 1987 Charter, were present as well.

Said Garcia: "[The farmers' long march] is not a request for a Christmas gift but a struggle for justice. And I think this is important for our people to recognize and remember -- that the struggle for justice requires a marathon mentality. I would like to thank [the farmers] because [they] gave us a lesson."

Abad said the Sumilao case had become a symbol of the desperation of landless farmers.

He said the manner in which the government would deal with the case could help give meaning to the amnesty being offered to communist rebels, many of whom were landless farmers frustrated by the agrarian reform program.

The former DAR officials said SMFI, a subsidiary of the food and beverage giant San Miguel Corp., could not have acted in good faith when it bought the land

"SMFI's argument that [it] bought the property in good faith contradicts the claims of its owner that they do good business and good corporate citizenship. They should know that they bought an agricultural land conditioned upon the compliance with the conversion order granted to its previous owner."

They said SMFI should likewise have known that a hog farm was "very inconsistent" with the conversion plan promised by Quisumbing.

The original plan included a development academy, a cultural center, an institute for livelihood science, a museum, a library, a golf course, a sports development complex, an agro-industrial park, forest development and support facilities, a 360-room hotel, a restaurant and housing projects.

None of the planned projects was implemented, according to the farmers. Instead, Quisumbing had the land registered under another title and sold it to SMFI, they said.

SMFI's contention is that the five-year period started only in 2002, when development permits were issued.

Pangandaman said this was provided for by DAR Administrative Order No. 1 series of 1989.

Speaking in behalf of the farmers, Napoleon Merida Jr., chair of the San Vicente Landless Farmers Association, expressed gratitude for the support of the former DAR officials.

He said they could not understand why the government could not make a decision on "the land that was awarded to us 12 years ago."

He added that walking 1,700 kilometers for two months was "only physically tiring, but waiting for Pangandaman's action is emotionally tiring."

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POSITION PAPER OF THE SUMILAO FARMERS

PREFATORY STATEMENT

This case is simple and ought to have been resolved a long time ago. The law is clear and the facts have been determined—and put into Memorandum- by none other than the DAR officials mandated to do so. Indeed, this is very much a case about due process and social justice as it is a case of application of the black letter of the law. And, on all counts, the law, its precepts, and rationale tilt in favor of the farmers of Sumilao, Bukidnon.

Regard for due process would have been manifested best by the early resolution of the Petition for Revocation of the highly contentious Conversion Order, not by an extended time for resolution which is both a surplusage and injustice. The said Petition was filed in November of 2004, more than three years ago and the responsibility to decide the case has been passed back and forth. The parties to this case have been heard and heard well. The only thing lacking is a decision on whose side the law is on, a duty which this Department is yet to fulfill. After three years of pendency, the case has been further prolonged by the three days for the submission of what have already been of cognizance to this Office, with or without the remand from the Office of the President.

Due process is violated when the parties are not given an opportunity to be heard and, equally, when there is a prolonged, unjustified delay of the determination of the case. Because time does not pass without consequences. Because decades of unjust deprivation of, and exclusion from their land puts to death the livelihood of a whole farming community. Because years of continuous and unpunished violation of the temporary and conditional permits for land use change emboldens the grantees to disregard the law. Because weeks of an exhausting and frustrating campaign for justice crushes the dignity of the farmers as they are ignored by the very authority they have respected and sought protection from. Because days of inaction and indecision translates both to hunger and anger. Because due process is respect for the rights of the parties and not a convenient excuse for buying time when the authorities are grappling with political will to set the crooked straight.

The strict implementation of the rules on conversion is based on the policy of ensuring food security and implementing genuine agrarian reform. The rules have been written with clarity precisely to avoid situations where landowners are granted conversion orders and continue to so escape coverage from CARP even if they do not have the intention nor ability to abide by the conditions and mandatory timeframes attached. This Office cannot encourage circumvention of its own rules—crafted out of expertise—by allowing parties to bypass rules and evade coverage from CARP with impunity. Otherwise, landowners will continue to resort to wasteful and illegal conversions and to pass the buck on to others who will conveniently and unlawfully violate the law with impunity as well. The simplistic assertion of lack of knowledge on the encumbrances of the title falls flat on its face when juxtaposed with the fact that the related previous case was of public knowledge and that the transferee has always had at its disposal resources, and connections at that, to investigate the background and status of the subject land. A status that is undeniably intricately intertwined with the Higaonon farmers and the prime, agricultural nature of the irrigated land located in Sumilao, Bukidnon.

At the expense of seeming to lecture the implementer, it is but imperative to reiterate that the subject land should have been, in the first place, non-negotiable for conversion. But final as the grant of the conversion order has become, the only material question thereafter was whether or not the conversion order was complied with and in case it was not, what remains is not a question but an imposition, a legal command—immediate revocation of the conversion order and coverage of the subject land. Absent such authority—temporary and conditional— to convert, or the proper and timely actual conversion of use, there no longer exists any reason for DAR not to cover it under CARP.

And, what of social justice? This Office is, or ought to be, highly acquainted with the concept because it is this very precept which resulted in the establishment of this Office and which justifies its continued existence. The 1997 Philippine Constitution, cognizant of the historical inequities and of the role the government plays in addressing the latter, mandates implementation of a genuine agrarian reform program. And so, said mandate has been fleshed out by law and rules. It is but ironic how the farmer is forced, after engaging all avenues of justice, to walk through predominantly similarly situated lands of the country to be able to rectify the wrong done them and reclaim their rights.

This case is rather simple. It is about applying the consequences of non-compliance with conversion rules. It is about not allowing an entity to change the use of the land if it was not granted, and did not even apply, for the authority to do so.

It is about executing the mandate of the Department—cover agricultural lands in excess of the allowed area if there is no reason to otherwise exempt it. The case is easy and is only complicated by hesitation, hesitation which will inevitably crumble before the legal and moral impetus it stubbornly struggles against.

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