

ACQUISITION; FORECLOSED AGRICULTURAL LAND

- In the instant case, the bank (DBP) may, however, dispose the subject property to a third party without applying for the issuance of a Certificate of Exclusion/Exemption since under DAR Memorandum Circular No. 5, Series of 1996 (**Guidelines Clarifying Sections 3 and 6 of R.A. 7881 Relative to Applications For Commercial Farm Deferment and the Turn-Over to DAR of Foreclosed Assets of Government Financial Institutions, Respectively**), pertinent provision of which states:
 2. Section 6 of R.A. 7881 provides the following:

"Section 6. There shall be incorporated after Section 73 of Republic Act No. 6657 a new section to read as follows:

Section 73-A. Exception. --- The provisions of Section 73, paragraph (e) to the contrary notwithstanding, the sales and or transfer of agricultural land in cases where such sale, transfer or conveyance is made necessary as a result of a bank's foreclosure of the mortgaged land is hereby permitted."

- The net effect of the aforequoted provision is to allow government financial institutions to dispose to third parties their properties which were foreclosed on or after the effectivity of R.A. No. 7881, i.e., March 12, 1995, under the General Banking Act. However, since said properties (e.g., the landholding in issue) fall under CARP coverage, the same shall still be acquired by the government through the DAR for distribution to qualified farmer-beneficiaries as mandated under R.A. No. 6657.

DAR Opinion No. 33, s. 2006
November 10, 2006

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- Concerning your second query in relation to the third query, farmer beneficiaries has a better right over the subject property, quoting the last paragraph of the said DOJ Opinion:

"... As the mortgage had ceased to exist upon the transfer of title to the tenant by virtue of the promulgation of P.D. No. 27 on October 21, 1972, there can be no mortgage to foreclose and therefore no subject for the foreclosure proceedings. Whatever equitable interest the mortgagee has in the landowners' right to receive payment is protected under Section 80, above-quoted, directing the Land Bank to settle existing liens and encumbrances affecting the property."

- It is explicit therefore that LBC Bank cannot exercise the right of retention over said agricultural properties since the mortgage had ceased to exist upon the transfer of title to the tenant by virtue of the promulgation of P.D. No. 27 on October 21, 1972. It necessarily follows that the bank can no longer offer to voluntary offer for sale the entire property.

DAR Opinion No. 30, s. 2006
October 20, 2006