

Likewise, DAR Administrative Order No. 01, Series of 2004 (**2004 Rules and Regulations Governing the Exclusion of Agricultural Lands Used for Cattle Raising from the Coverage of the Comprehensive Agrarian Reform Program**) insofar as pertinent, provides:

*“Sec. 14. Permanent/Continuous Exclusion of Lands Devoted to Cattle Raising Issued Exclusion Orders by the DAR. Lands devoted to cattle raising which have been issued exclusion orders by the DAR may be permanently excluded from the coverage of the CARP, subject to the following conditions:*

*14.1 The subject lands which have been excluded must be continuously utilized for cattle production; or*

*14.2 The Stocking Rate (SR) should not fall below the prescribed SR. SR is considered below the prescribed ratios when:*

*x x x                      x x x                      x x x*

*14.3 The landowner shall submit, under oath, an annual report on the status of compliance with the conditions imposed under this Section to the MARO, copy furnished PARO and DAR Regional Office covering the subject property.”*

The abovequoted provisions of the Civil Code and A.O. No. 01, Series of 2004, when taken together, would clearly and explicitly reveal that landowner may exercise his rights, i.e., to develop the 10-hectare portion of his property into saba banana farm, but the same shall be subject to existing laws, the Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), in particular. Since the portion of the property will eventually be devoted to agricultural activity, it will cease to be exempt from the CARP coverage. The government through the DAR will acquire the property to be distributed to qualified farmer-beneficiaries as mandated under R.A. No. 6657 subject however to the landowner's right of retention.

DAR Opinion No. 08, s. 2007  
February 07, 2007

#### **DAR CLEARANCE; MANDATORY REQUIREMENT FOR DISPOSITION OR ALIENATION OF AGRICULTURAL LANDS LESS THAN 5 HECTARES**

- The provision of Section 70 of R.A. No. 6657 implies that Retention Order and/or Certificate of Retention are not mandatorily required before a retained area could be sold or alienated. It is enough that the total landholdings that shall be owned by the transferee thereof inclusive of the land to be acquired shall not exceed the landholding ceilings provided for by CARL. It submitted that our Provincial Agrarian Reform Officer (PAROs) are intelligent, capable and trustworthy enough to arrive at a fair and honest finding as to what constitute the retention area from which finding he must necessarily base his decision on whether or not to issue the mandatorily required DAR Clearance to prevent circumvention of the Program. What is mandatory as far as the sale/alienation of agricultural lands less than five (5) hectares are concerned is the DAR Clearance and not the Retention Certificate or Order.

DAR Opinion No. 10, s. 2007  
February 13, 2007