

till his farmholding would be tantamount to subleasing. Section 27 of RA 3844 prohibits the agricultural lessee to employ a sub-lessee on his landholding except in case of illness or temporary incapacity where he may employ laborers whose services on his landholding shall be on his account.

DAR Opinion No. 19, S. 2008
July 17, 2008

LEASEHOLD; CONDITIONS TO ESTABLISH TENANCY RELATIONSHIP

- To establish tenancy relationship, the following conditions must be present: 1) the parties are the landowner and the tenant; 2) the subject is agricultural land; 3) there is consent by the landowner for tenant to work on the land, given either orally or in writing, expressly or impliedly; 4) the purpose is agricultural production; 5) there is personal cultivation or with the help of the immediate household; 6) there is compensation in terms of payment of a fixed amount in money and/or produce. All the conditions set forth must be present and absence of any of said conditions would defeat the purpose and essence of tenancy relationship.

DAR Opinion No. 21, S. 2008
August 21, 2008

LEASEHOLD; LESSEES RIGHT OF PRE-EMPTION/RIGHT OF FIRST REFUSAL

- A tenant must be given the first priority in buying the land he tills. However, it should be stressed that the said right may only be availed of by bona fide tenants. In the case of *Castillo v. Court of Appeals*, G.R. No. 161959, February 2, 2007, a bona fide tenant is defined as a person cultivating the land himself and with the aid available from his immediate farm household. Therefore, for a farmer to be given the right of first refusal, he must show proof that he has been cultivating the land personally or with the aid of his immediate family members under a tenancy relationship.

DAR Opinion No. 08, S. 2008
April 14, 2008

LEASEHOLD; TENANCY RELATIONSHIP NOT EXTINGUISHED BY TRANSFER OF OWNERSHIP

- Ang isang lehitimong kasamang namumuwisan ay may karapatan na magpatuloy sa paggawa sa hinahawakang lupa kung sakali man na ipagbili o magkaroon ng paglilipat sa pagmamay-ari ng lupang sinasaka. Ang isang namumuwisan sa pagsasaka, gayunman, ay maaring magkusa ng pagsasauli sa hinahawakang lupa at ito ay isang paraan ng pagwawakas ng pagsasamahang buwisan sa pagsasaka alinsunod sa Seksyon 8 (Pagwawakas sa Pagsasamahang Buwisan sa Pagsasaka) ng nasabing batas.

DAR Opinion No. 23, S. 2008
September 18, 2008