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services as counsel, a *formal substitution* of deceased Memoracion by her heir, Edgardo Cruz. It also needs mention that Oswaldo Cruz, although also an heir of Memoracion, should be excluded as a legal representative in the case for being an adverse party therein.[16]

WHEREFORE, we *GRANT* the petition. We *REVERSE* the Court of Appeals' Decision dated 20 December 2005 and Resolution dated 21 June 2006 in CA-G.R. CV No. 80355. We *REMAND* this case to the Regional Trial Court of the National Capital Judicial Region, Branch 30, Manila, for further proceedings.

SO ORDERED.

Nachura, Bersamin,[*] *Abad,* and *Mendoza, JJ.,* concur.

SECOND DIVISION

[G.R. No. 176410. September 1, 2010]

LAND BANK OF THE PHILIPPINES, *petitioner, vs.* **CONRADO O. COLARINA,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; COMPREHENSIVE AGRARIAN REFORM LAW (R.A. 6657); MANDATORY APPLICATION OF SECTION 17 THEREOF IN THE DETERMINATION OF JUST COMPENSATION; REITERATED.— The factors for the determination of just compensation in Section 17 of R.A. No. 6657, and consequently

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[16] In *Sumaljag v. Literato*, *supra* note 9, the deceased's sister, although a legal heir, was excluded as a legal representative for being one of the adverse parties in the pending cases.

[*] Designated additional member per Special Order No. 882 dated 31 August 2010.

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converted into a formula in A.O. No. 6, Series of 1992, as amended by A.O. No. 11, Series of 1994, is mandatory. *Land Bank of the Philippines v. Sps. Banal*, as affirmed by our subsequent rulings, did not equivocate.

2. ID.; ID.; ID.; SECTION 17 OF R.A. 6657, AS CONVERTED INTO FORMULA IN A.O. NO. 6, SERIES OF 1992 AND SUPERSEDED BY A.O. NO. 5, SERIES OF 1998, DOES NOT APPLY IN CASE AT BAR; APPLICABLE FORMULA.— We note that A.O. No. 6, Series of 1992 (as amended by A.O. No. 11, Series of 1994) has been superseded by A.O. No. 5, Series of 1998. However, A.O. No. 5, Series of 1998, is not applicable to the present case as the subject properties were assessed and valued prior to its effectivity. A perusal of records of this case readily reveals the Claims Valuation and Processing Form accomplished by petitioner when it reassessed and revaluated the subject properties. The document follows the required formula for valuation of properties under A.O. No. 6, Series of 1992, as amended by A.O. No. 11, Series of 1994. In fact, even the RTC used the formula of petitioner to compute just compensation based on petitioner's findings on land use of the subject properties. However, the RTC, as well as the CA, was gravely mistaken in using respondent's valuation of the properties contained in Oliva's appraisal report. x x x Clearly from the foregoing, the valuation of the subject properties by petitioner was based on data gathered by DAR and contained in its Field Investigation Report. The data correctly reflected *actual use and produce* of the subject properties and did not factor in potential use as what respondent's appraiser did. In fact, we note that the data obtained by Oliva was based on his unofficial surveys of farmers and Chinese traders. Oliva readily dismisses government valuation as unreliable without proffering evidence to support his statement. This explains the big discrepancy in Oliva's Appraisal Report and petitioner's valuation. While we commend respondent in readily participating in the government's agrarian reform program, our previous rulings preclude us from validating the valuation of the subject properties proffered to, and affirmed by, the SAC. The government cannot be forced to purchase land which it finds no need for, regardless of Oliva's unschooled opinion. Considering respondent's belief that the properties are worth more than the valuation made by the DAR, he can proceed to develop the land excluded by the DAR from

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expropriation into its potential use as assessed by Oliva. Thus, replacing the valuation of the subject properties pursuant to the determination of petitioner where the LV was pegged using the formula {CNI x 90%} + {MV x 2}, we arrive at a different amount[.]

APPEARANCES OF COUNSEL

LBP Legal Department for petitioner.
Fe Rosario P. Buelva for respondent.

D E C I S I O N

NACHURA, *J.*:

Before us is a petition for review on *certiorari* assailing the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 68476,[1] which affirmed the decision of the Regional Trial Court (RTC), Branch 3, Legazpi City, Albay, sitting as a Special Agrarian Court (SAC) in Agrarian Case No. 95-01.[2]

The facts are simple.

Respondent Conrado O. Colarina is the registered owner of three (3) parcels of agricultural land which he acquired from their former owner, Damiana Arcega. The parcels of land have a total area of 972,047 square meters with the following description:

TRANSFER CERTIFICATE OF TITLE (TCT) No.	AREA (hectares)	LOCATION
T-86402	12.5718	Herrera, Ligao, Albay
T-86448	48.3062	Herrera, Ligao, Albay
T-86449	36.3267	Amtic, Ligao, Albay

[1] Penned by Associate Justice Vicente Q. Roxas (dismissed), with Associate Justices Josefina Guevara-Salonga and Apolinario D. Bruselas, Jr., concurring; *rollo*, pp. 51-59.

[2] Penned by Judge Wenceslao R. Villanueva, Jr.; *id.* at 89-100.

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Upon acquisition thereof, respondent manifested his voluntary offer to sell the properties to the Department of Agrarian Reform (DAR) for coverage under Republic Act (R.A.) No. 6657, the Comprehensive Agrarian Reform Law (CARL). Respondent's assessment value of the properties was ₱45,000.00 per hectare.

The DAR, through petitioner Land Bank of the Philippines (LBP), assessed the properties and offered to purchase only 57.2047 hectares out of the 97.2047 hectares voluntarily offered for sale by respondent. The excluded area (40 hectares) fell under the exemptions and exclusions provided in Section 10[3] of the CARL, *i.e.*, all lands with eighteen percent (18%) slope and over. In addition, the LBP assigned the following values to the properties:

TCT No.	Covered Area	Excluded Area	Value
T-86402	6.5718	6	₱ 46,045.60
T-86448	28.3062	20	₱ 208,144.33
T-86449	22.3267	14	₱ 154,394.22

As the LBP's assessment and valuation of the properties was unacceptable to, and rejected by, respondent, he elevated the determination of just compensation of the properties to the Provincial Agrarian Reform Adjudicator (PARAD). Unfortunately for respondent, the PARAD affirmed the valuation set forth by the LBP.

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[3] SEC. 10. *Exemptions and Exclusions*. –

x x x x x x x x x

c) Lands actually, directly and exclusively used and found to be necessary for national defense, school sites and campuses, including experimental farm stations operated by public or private schools for educational purposes, seeds and seedlings research and pilot production center, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent (18%) slope and over, except those already developed, shall be exempt from the coverage of this Act. (*As amended by R.A. 7881*)

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Disappointed with the low valuation by petitioner and the DAR, respondent filed a Complaint[4] before the RTC, Branch 3, Legazpi, Albay, for the judicial determination of just compensation.

In refutation, petitioner filed its Answer,[5] denied the material allegations in the Complaint, and alleged that it had correctly assessed and valuated the subject properties consistent with R.A. No. 6657 and DAR Administrative Order (AO) No. 6, Series of 1992.

During pre-trial, LBP manifested that the subject properties may be reassessed and revaluated based on the new guidelines set forth in DAR A.O. No. 11, Series of 1994. Intent on finding a common ground between petitioner and respondent and to amicably settle the case, the SAC ordered the revaluation. The new valuations of the LBP were:

TCT No.	Old Valuation	New Valuation
T-86402	₱ 46,045.60	₱ 51,762.90 at ₱7,876.5178/ha.
T-86448	₱208,144.33	₱259,525.41 at ₱9,168.50/ha.
T-86449	₱154,394.22	₱217,223.60 at ₱9,729.3196/ha.[6]

The foregoing valuation was still rejected by respondent. Hence, trial ensued. To support his Complaint and valuation of the subject properties, respondent presented in evidence his own testimony and that of Carlito M. Oliva (Oliva), then Assistant Provincial Assessor of Camarines Sur and President of the Camarines Chapter of the National Real Estate Association.

As for petitioner, it presented the testimonies of Armel Alcantara (Alcantara), Chief of the Landowners Assistance Division of

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[4] Records, pp. 1-5.

[5] *Id.* at 25-28.

[6] Folder of Exhibits, pp. 184-192.

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the LBP, and Melchor Balmaceda, officer of LBP, Sipocot Branch.

The SAC summarized the testimonies of the witnesses as follows:

> Second witness Carlito M. Oliva, x x x testified that in several instances, he was deputized by the Honorable Court under RTC BR. 26 to chair the commission in the determination of the fair market value of properties subject for payment by the government. That the properties involved in this case is composed of three parcels. [T-86402] is situated at Barangay Herrera, Ligao, Albay which contains an area of 12.5718 has.; [T-86449] is also situated in the same *Barangay* with an area of 36.3267 has.; [a]nd [T-86448] is situated at Barangay Amtic, Ligao, Albay with an area of 48.3062 has or a total of 97.2047 has. Upon Mr. Colarina's request, he conducted an investigation and ocular inspection on the subject properties and made a narrative report relative thereto. That his recommendation as the reasonable market value of the properties is at ₱49,201.148/ha or a total of ₱4,788,415.20 using the productivity approach since the subject property is mostly agricultural. That the actual area planted to coconuts is about 43.84%; banana plants is 7.79%; corn land is 1.14%; homelots is 0.50% and 4.97% cogonal, while 5% is non-arable.
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> x x x x x x x x x
>
> Armel Alcantara testified that x x x before, he was the Division Chief of the Claim, Processing and Payment Division (CPPD) [of the LBP]. As such, he conducts review of claim folders covered by P.D. No. 27, E.O. No. 228 and R.A. No. 6657, most specifically the claim folders under voluntary offer to sell and compulsory acquisition claim folders. That he valued the subject lands owned by [respondent] based on AO No. 11 S. of 1996. Pursuant to the Hon. Court's order dated November 14, 1996. For TCT No. 86448, the area covered is 28.3062 has. [o]ut of 48.3062 has. Because some portion of the property is hilly and mountainous and underdeveloped which exceeded the 18% limit set forth under Sec. 10 of RA 6657. This lot is planted to corn, peanut and cogonal. The corn land is 13 has., peanut land is .25 has., cogonal is 15.0562 has.; the excluded portion which is mountainous and about 25% slope totals 20 has. The factor considered by Land Bank is under Formula No. 2 which is the Capitalized Net Income (CNI) x 90% and the market value per Tax declaration wherein they get the remaining 10%. The CNI was taken from the average

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gross production based on the field investigation report multiplied by the selling price from the Department of Agriculture municipal data, arriving at a total CNI of ₱10,291.67 per ha. The market value per Tax declaration was based on the third classification as furnished to Land Bank by the Municipal Assessor's office. The total MVPT as computed by Land Bank is ₱14,193.22, so, 10% of which is ₱1,419.32. After computing the CNI and the MVPT, he applied the applicable formula which is CNI x 90% and the MVPT x 10%. The CNI total is ₱9,262.5 and the MV is ₱1,419.32. Summing up the total amount of the two factors, the value per ha. Arrived at for corn land is ₱10,681.82 per ha. Multiply it by 13 has. For corn land, the total amount is ₱3,535.66. For peanut land, the total amount is ₱3,535.66 and for cogonal where they used the market value per tax declaration multiplied by 2. (sic) the total is ₱117,126.09. Therefore, the total valuation of this 28.3062 has. portion of the property acquired by the government is ₱259,525.41.

For Title No. 86449, 22.3267 has. out of 36.3267 has. [i]s carpable. The 14 has. [w]as excluded because this falls under the hilly and mountainous portion which is about 18% slope. Applying the same rules and regulations, the total valuation for this property is ₱217,223.60.

For Title No. 86402, the area covered is 6.5718 has. [o]ut of 12.5718 has. The area of 6 has. is excluded for it falls above 18% slope. Applying again the same rules and regulations, the total valuation for the 6.5718 has. [a]cquired by the government is ₱51,762.90.

That there are several valuations/formulas provided for under RA 6657 and the Land Bank follows the applicable formula as reflected in the field investigation report. Therefore, their basis in determining which factors will be applied are the result of the field investigation report. After determining the existence of the property, the DAR, Land Bank and the other agencies concerned conducted an ocular inspection of the property being offered for sale under CARP or covered by the CARP. The data in-put were gathered in the field including the number of fruit bearing trees also determined. The production data was also taken and a survey was being conducted in the field on adjacent properties. Said data were compared with the record of the Municipal agriculturist and other officers. That the valuation of the property was based under AO No. 11 existing at the time of the valuation of the property as of November 19, 1996.

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Melchor Balmaceda testified that at present he is an officer of Land Bank of the Philippines, Sipocot Branch but before, he was connected with Land Bank VO, Legazpi City Branch as Agrarian Affairs Specialist. As such, he conducts ocular inspection on the properties covered by the CARP, and gathers information relative to land valuation. That sometime in 1991, he together with DAR personnel and BARC Chairman and caretakers of the property conducted an ocular inspection in question in the name of Damian Arcega, the former owner of the property, which property consisted of 3 parcels. That in connection thereto, they made a written report that the property is generally mountainous and majority is planted to coconut. A portion is planted to corn and minimal portion is planted to peanut and there is also a portion which is cogonal where there is no product. That all the areas are carpable. That they gather data information from government agencies and they compute the net income of the properties based on the produce.[7]

Thereafter, the SAC rendered a decision reconciling the conflicting evidence of the parties. The SAC followed the formula of the LBP and its land use classification of the subject properties; the appraisal report on the valuation thereof. It disposed of the case, to wit:

To reconcile the conflicting figures both prayed for by [respondent] and [petitioner] Land Bank as the computation of the value of the properties to be paid to the [respondent], taking into account all the factors in determining just compensation and considering that the taking of private agricultural properties under Agrarian Reform Law is a special kind of eminent domain which is revolutionary in character, the primary goal of which is to grant land to the landless and the need for high production, the just compensation for the lots subject matter of this case, using the value in the [respondent's] appraisal report and the land use of the properties as classified by the Land Bank, are as follows:

1) TCT No. T-86448 – carpable area – 28.3062 has.

Land Use:

A) Corn land
Area = 13.0000 has.
Value/Ha = ₱52,700/has (Per Appraisal Report)

[7] *Rollo*, pp. 91-93.

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Computation:
₱52,700/ha x 13.0000 has = ₱685,100.00

B) Peanut

Area = .2500
Value/Ha = ₱60,000/has (Per Appraisal Report)
Computation:
₱60,000.00/has x .2500 has = ₱15,000.00

C) Cogonal

Area = 15.0562 has.
Value/Ha = ₱5,270 (Per Appraisal Report)
Computation:
₱5,270.00/has x 15.0562 has = ₱79,346.17

Total:

Corn land	- ₱685,100.00
Peanut	- 15,000.00
Cogonal	- 79,346.17
	₱779,446.17

2) TCT No. T-86449 – carpable area – 22.3267 has.

Land Use:

A) Corn land

Value/Ha = ₱52,700.00/ha (Per Appraisal Report)
Area = 15.000 has
Computation:
₱52,700.00/has. x 15.0000 has = ₱790,500.00

B) Cogon:

Value/ha = ₱5,270/ha (Per Appraisal Report)
Area = 7.3267 has
Computation:
₱5,270/ha x 7.3267 has = ₱38,611.7

Total:

Corn land	- ₱790,500.00
Cogon	- 38,611.70
	₱829,111.70

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3) TCT No. T-86402 – carpable area – 6.5718 has

Land Use:

A) Corn land

Value/ha = ₱52,700/ha (Per Appraisal Report)
Area = 3.0000 has
Computation:
₱52,700/has x 3.0000 has = ₱158,100

B) Cogonal

Value/ha = ₱5,270/ha (Per Appraisal Report)
Area = 3.5718 has
Computation:
₱5,270/ha x 3.5718 has = ₱18,823.28

Total:

Corn land	= ₱158,100.00
Cogonal	= 18,823.38
Total	= ₱176,923.38

Based on the foregoing computation, the just compensation for 1) TCT No. T-86448 with a carpable area of 28.3062 has. is fixed at ₱779,446.17; 2) TCT No. T-86449 with a carpable area of 22.3267 has. is fixed at ₱829,111.70; and for 3) TCT No. T-86402 with a carpable area of 6.5718 has. is fixed at ₱18,823.38.

Thus, the overall valuation of the property is as follows:

TCT No. T-86648	₱ 779,446.17
TCT No. T-86649	829,111.70
TCT No. T-86402	176,923.38
TOTAL	₱1,785,481.25

WHEREFORE, [petitioner LBP] is ordered to pay [respondent] Conrado Colarina the total sum of ONE MILLION SEVEN HUNDRED EIGHTY FIVE THOUSAND FOUR HUNDRED EIGHTY ONE PESOS AND TWENTY-FIVE CENTAVOS (₱1,785,481.25) in case or in bond or in any other mode of payment under Section 18 of RA 6657 otherwise known as the Comprehensive Agrarian Reform Law, at the option of the landowner.

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SO ORDERED.[8]

Still dissatisfied with the valuation of just compensation for the subject properties, both parties appealed to the CA. The appellate court affirmed the ruling of the SAC, to wit:

WHEREFORE, premises considered, the August 7, 2000 Decision of the Regional Trial Court of Lega[z]pi City, Albay, Branch 3, in Agrarian Case No. 95-01, is hereby **AFFIRMED**.

SO ORDERED.[9]

Adamant on the accuracy of its computation, petitioner appeals to this Court, positing the following issues:

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERRORS OF LAW IN THE FOLLOWING INSTANCES:

I.

WHEN IT AFFIRMED THE REGIONAL TRIAL COURT OF LEGA[Z]PI CITY, BRANCH 3 DECISION DATED AUGUST 7, 2000 WHICH AWARDED ₱1,785,481.25 AS JUST COMPENSATION FOR THE FIFTY-SEVEN-HECTARE PROPERTY, AS THE SAID DECISION FAILED TO CONFORM TO THIS HONORABLE COURT'S RULING IN "*LAND BANK OF THE PHILIPPINES V. SPOUSES VICENTE BANAL AND LEONIDES ARENAS-BANAL*" (G.R. NO. 143276).

II.

WHEN IT TREATED THE TAKING OF AGRICULTURAL LANDS FOR AGRARIAN REFORM PURPOSES AS AN ORDINARY EXPROPRIATION OF PRIVATE PROPERTY FOR PUBLIC USE.[10]

We impale the foregoing into the singular issue of whether the lower courts' computation of just compensation for the subject properties is correct.

We answer in the negative and find the petition impressed with merit.

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[8] *Id.* at 98-100.

[9] *Id.* at 58-59.

[10] *Id.* at 263-264.

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As pointed out by petitioner, our ruling in *Land Bank of the Philippines v. Sps. Banal*[11] is definitive on the factors to be considered, and the formula utilized, for the determination of just compensation:

> To begin with, under Section 1 of Executive Order No. 405 (1990), the Landbank is charged "primarily" with "the determination of the land valuation and compensation for all private lands suitable for agriculture under the Voluntary Offer to Sell or Compulsory Acquisition arrangement…" For its part, the DAR relies on the determination of the land valuation and compensation by the Landbank.
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> x x x x x x x x x
>
> A party who disagrees with the decision of the DAR adjudicator may bring the matter to the RTC designated as a Special Agrarian Court "for final determination of just compensation."
>
> In the proceedings before the RTC, it is mandated to apply the Rules of Court and, on its own initiative or at the instance of any of the parties, "appoint one or more commissioners to examine, investigate and ascertain facts relevant to the dispute, including the valuation of properties, and to file a written report thereof x x x." In determining just compensation, the RTC is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended, thus:
>
> > "Sec. 17. *Determination of Just Compensation*. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation."
>
> These factors have been translated into a basic formula in DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994, issued pursuant to the

[11] 478 Phil. 701, 708-710 (2004). (Citations omitted.)

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DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

Subsequent rulings of the Court uniformly parleyed that Section 17 of R.A. No. 6657 has been translated into a formula by the DAR through A.O. No. 6, Series of 1992, as amended by A.O. No. 11, Series of 1994:[12]

A. There shall be one basic formula for the valuation of lands covered by [Voluntary Offer to Sell] or [Compulsory Acquisition] regardless of the date of offer or coverage of the claim:

LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)

Where: LV = Land Value
CNI = Capitalized Net Income
CS = Comparable Sales
MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant, and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

LV = (CNI x 0.9) + (MV x 0.1)

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

LV = (CS x 0.9) + (MV x 0.1)

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

LV = MV x 2

In no case shall the value of the land using the formula MV x 2 exceed the lowest value of land within the same estate under consideration or within the same *barangay* or municipality (in

[12] See *Land Bank of the Philippines v. Luciano*, G.R. No. 165428, November 25, 2009, 605 SCRA 426; *Land Bank of the Philippines v. Rufino*, G.R. Nos. 175644 and 175702, October 2, 2009, 602 SCRA 399; *Land Bank of the Philippines v. Lim*, G.R. No. 171941, August 2, 2007, 529 SCRA 129; *Land Bank of the Philippines v. Celada*, G.R. No. 164876, January 23, 2006, 479 SCRA 495.

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that order) approved by LBP within one (1) year from receipt of claimfolder.

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A.6 The basic formula in the grossing-up of valuation inputs such as LO's Offer, Sales Transaction (ST), Acquisition Cost (AC), Market Value Based on Mortgage (MVM) and Market Value per Tax Declaration (MV) shall be:

Grossed-up Valuation Input = Valuation input x Regional Consumer Price Index (RCPI) Adjustment Factor

The RCPI Adjustment Factor shall refer to the ratio of RCPI for the month issued by the National Statistics Office as of the date when the claimfolder (CF) was received by LBP from DAR for processing or, in its absence, the most recent available RCPI for the month issued prior to the date of receipt of CF from DAR and the RCPI for the month as of the date/effectivity/ registration of the valuation input. Expressed in equation form:

$$\text{RCPI Adjustment Factor} = \frac{\text{RCPI for the Month as of the Date of Receipt of Claimfolder by LBP from DAR or the Most recent RCPI for the Month Issued Prior to the Date of Receipt of CF}}{\text{RCPI for the Month Issued as of the Date/Effectivity/Registration of the Valuation Input}}$$

B. Capitalized Net Income (CNI) — This shall refer to the difference between the gross sales (AGP x SP) and total cost of operations (CO) capitalized at 12%.

Expressed in equation form:

$$\text{CNI} = \frac{(\text{AGP} \times \text{SP}) - \text{CO}}{.12}$$

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Where: CNI = Capitalized Net Income

AGP = Latest available 12-month's gross production immediately preceding the date of offer in case of VOS or date of notice of coverage in case of CA.

SP = The average of the latest available 12-month's selling prices prior to the date of receipt of the claim folder by LBP for processing, such prices to be secured from the Department of Agriculture (DA) and other appropriate regulatory bodies or, in their absence, from the Bureau of Agricultural Statistics. If possible, SP data shall be gathered from the *barangay* or municipality where the property is located. In the absence thereof, SP may be secured within the province or region.

CO = Cost of Operations

Whenever the cost of operations could not be obtained or verified, an assumed net income rate (NIR) of 20% shall be used. Landholdings planted to coconut which are productive at the time of offer/coverage shall continue to use the 70% NIR. DAR and LBP shall continue to conduct joint industry studies to establish the applicable NIR for each crop covered under CARP.

.12 = Capitalization Rate

x x x x x x x x x

C. CS shall refer to any one or the average of all the applicable sub-factors, namely, ST, AC and MVM:

Where: ST = Sales Transactions as defined under Item C.2

AC = Acquisition Cost as defined under Item C.3

MVM = Market Value Based on Mortgage as defined under Item C.4

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D. In the computation of Market Value per Tax Declaration (MV), the most recent Tax Declaration (TD) and Schedule of Unit Market Value (SMV) issued prior to receipt of claimfolder by LBP shall be considered. The Unit Market Value (UMV) shall be grossed up from the date of its effectivity up to the date of receipt of claimfolder by LBP from DAR for processing, in accordance with item II.A.A.6.

In *Land Bank of the Philippines v. Celada*,[13] we declared:

While SAC is required to consider the acquisition cost of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declaration and the assessments made by the government assessors to determine just compensation, it is equally true that *these factors have been translated into a basic formula by the DAR* pursuant to its rule-making power under Section 49 of RA No. 6657. As the government agency principally tasked to implement the agrarian reform program, it is the DAR's duty to issue rules and regulations to carry out the object of the law. DAR AO No. 5, s. of 1998 precisely "filled in the details" of Section 17, RA No. 6657 by providing a basic formula by which the factors mentioned therein may be taken into account. The SAC was at no liberty to disregard the formula which was devised to implement the said provision.

It is elementary that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.

In the same vein, *Land Bank of the Philippines v. Lim*[14] did not depart from the previous rulings and explicitly affirmed the mandatory nature of Section 17 of RA No. 6657 and DAR A.O. No. 6092, as amended by DAR A.O. No. 11-94:

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[13] *Supra*, at 506-507. (Citations omitted, emphasis supplied.)

[14] *Supra* note 12, at 134-135.

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In *Land Bank of the Philippines v. Spouses Banal*, this Court underscored the **mandatory nature of Section 17 of RA 6657 and DAR AO 6-92, as amended by DAR AO 11-94**, *viz.*:

"In determining just compensation, *the RTC is* ***required*** *to consider several factors enumerated in Section 17 of R.A. 6657, as amended, thus*:

> "Sec. 17. *Determination of Just Compensation*. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation."

These factors have been translated into a basic formula in [DAR AO 6-92], *as amended by [DAR AO 11-94],* issued pursuant to the DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

***The formula stated in [DAR AO 6-92], as amended, is as follows*:**

LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above formula *shall* be used if all **the three factors are present**, relevant and applicable.

A.1 When **the CS factor is not present** and CNI and MV are applicable, the formula *shall* be:

LV = (CNI x 0.9) + (MV x 0.1)

x x x x x x x x x

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While the determination of just compensation involves the exercise of judicial discretion, however, *such discretion must be discharged within the bounds of the law*. Here, the RTC wantonly disregarded R.A. 6657, as amended, and its implementing rules and regulations. ([DAR AO 6-92], as amended by [DAR AO 11-94]).

x x x x x x x x x

WHEREFORE, x x x. Civil Case No. 6806 is REMANDED to the RTC x x x. ***The trial judge is directed to observe strictly the procedures specified above in determining the proper valuation of the subject property.***

The recent case of *Heirs of Lorenzo and Carmen Vidad and Agvid Construction Co., Inc. v. Land Bank of the Philippines*[15] is most propinquity on the same point:

LBP's valuation of lands covered by the CARP Law is considered only as an initial determination, which is not conclusive, **as it is the RTC, sitting as a SAC, that could make the final determination of just compensation, taking into consideration the factors enumerated in Section 17 of RA 6657 and the applicable DAR regulations.** LBP's valuation has to be substantiated during an appropriate hearing before it could be considered sufficient in accordance with Section 17 of RA 6657 and the DAR regulations.

In *Land Bank of the Philippines v. Celada*, the Court ruled that the factors enumerated under Section 17 of RA 6657 had already been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of RA 6657. Thus, the Court held that the formula outlined in DAR AO No. 5, series of 1998, should be applied in computing just compensation. DAR AO No. 5, series of 1998, provides:

A. There shall be one basic formula for the valuation of lands covered by VOS or CA:

LV = (CNI x 0.6) + (CS x 0.3) + (MV x 0.1)

Where:

LV = Land Value
CNI = Capitalized Net Income
CS = Comparable Sales
MV = Market Value per Tax Declaration

[15] G.R. No. 166461, April 30, 2010.

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The above formula shall be used if all three factors are present, relevant and applicable.

A1. When the CS factor is not present and CNI and MV are applicable, the formula shall be:

LV = (CNI x 0.9) + (MV x 0.1)

A2. When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

LV = (CS x 0.9) + (MV x 0.1)

A3. When both the CS and CNI are not present and only MV is applicable, the formula shall be:

LV = MV x 2

In no case shall the value of idle land using the formula MV x 2 exceed the lowest value of land within the same estate under consideration or within the same *barangay* or municipality (in that order) approved by LBP within one (1) year from receipt of claimfolder.

In *Land Bank of the Philippines v. Spouses Banal*, we remanded the case to the SAC for further reception of evidence because the trial court based its valuation upon a different formula and did not conduct any hearing for the reception of evidence.

The mandatory application of the aforementioned guidelines in determining just compensation has been reiterated recently in *Land Bank of the Philippines v. Lim* and *Land Bank of the Philippines v. Heirs of Eleuterio Cruz*, where we also ordered the remand of the cases to the SAC for the determination of just compensation strictly in accordance with the applicable DAR regulations.[16]

The factors for the determination of just compensation in Section 17 of R.A. No. 6657, and consequently converted into a formula in A.O. No. 6, Series of 1992, as amended by A.O. No. 11, Series of 1994, is mandatory. *Land Bank of the Philippines v. Sps. Banal*,[17] as affirmed by our subsequent rulings, did not equivocate.

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[16] Emphasis supplied, citations omitted.

[17] *Supra* at note 11.

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We note that A.O. No. 6, Series of 1992 (as amended by A.O. No. 11, Series of 1994) has been superseded by A.O. No. 5, Series of 1998. However, A.O. No. 5, Series of 1998, is not applicable to the present case as the subject properties were assessed and valued prior to its effectivity.

A perusal of the records of this case readily reveals the Claims Valuation and Processing Form[18] accomplished by petitioner when it reassessed and revaluated the subject properties. The document follows the required formula for valuation of properties under A.O. No. 6, Series of 1992, as amended by A.O. No. 11, Series of 1994. In fact, even the RTC used the formula of petitioner to compute just compensation based on petitioner's findings on land use of the subject properties. However, the RTC, as well as the CA, was gravely mistaken in using respondent's valuation of the properties contained in Oliva's appraisal report, *i.e.*, ₱52,700.00/ha.

We note that Oliva's appraisal report did not attach pertinent documents thereto, considering that, as he had testified, he used the productivity approach:

Q Mr. Witness [Oliva] you said that you gave the valuation of the coconut land in that property of Mr. Colarina. What is your valuation to the coconut land per hectare?

WITNESS:

A For the coconut land, the valuation I arrived at for the coconut land is the amount of ₱45,300.00 per hectare. That is the market value of the 4th class coconut land and the improvements already, sir.

Q What about the banana lands?

A The valuation is ₱70,800.00 per hectare, that is the valuation of the land, 4th class banana land including already the improvements.

Q Why did you conclude this high valuation of banana lands?

A Considering that I have compressed all these banana in every hectare, I have a reason to believe that it is a 4th class banana

[18] *Supra* at note 6.

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land. And in a 4th class banana land, the price per kilo is only ₱15.00 to ₱30.00 per kilo. The effective number of bananas per hectare is only 600 clusters considering that this is the productivity for a 4th class banana land. The produce annually of 4,000 kilos is very minimal. So at ₱15.00 per kilo, I arrived at a valuation of ₱60,000.00 per hectare. The appraisal, on the other hand, for taxation purposes, we just state there the area actually being planted to bananas not considering the clusters of bananas in one hectare. Banana plantation with this kind of clusters will cost more than this if it will be properly fertilized by the owner. So this banana land is only a 4th class banana land and is about 7.5764 hectares of the subject property with only 4,000 to 8,000 kilos of banana fruits annually.

[Counsel of defendant DAR]

Q What about the corn land area?
A I valued it at ₱52,700.00 per hectare, sir.

Q What is your basis?
A I have also here on page 5 of my report. I have classified the subject portion as a second class corn land. With a production of 101 to 150 cavans per hectare per year and the price of corn which is ₱420.00 per cavan, I arrived at a valuation of ₱52,700 per hectare, sir.

x x x x x x x x x

Q But that is not the data established by the [DAR]?
A That is why I made a separate actual investigation. I made personal interviews with the farmers and so we arrived at this production.

Q So your basis is the information which you gathered from the farmers?
A Considering the kind of soil of the property planted by the farmers to corn, we will have to arrive at this productivity, sir.

Q Did you inquire about the government support price of corn per kilo?
A The government support price is at ₱7.00 or ₱8.00 per kilo, sir.

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Q Did you get that from the National Food Authority?

A I got this from the [C]hinese traders because I want to arrive at the open market valuation. I am not prone to adopt the government price as I was deputized by Mr. Colarina [respondent] to appraise his property independently, not as an assessor but as a private appraiser from the open market. And I know that this is still subject for review by the honorable court.

x x x x x x x x x

Q **So do you have the data where you based the valuation?**

A **That was the result of my actual interview with the farmers and traders.**

x x x x x x x x x

Q How much is the valuation you gave to this rootcrops area?

A The subject portion was classified by me as a 3rd class rootcrop land and so I valued it at ₱60,000.00 per hectare, sir.

Q Do you mean to tell this honorable court that this rootcrops land, the banana land and corn land are distinct areas separate from each other?

A **I apprised this honorable court that I appraised this property not exactly on what is being produced in the area. I considered the land itself, the classification of the land, the boundaries there but some are "*ogacon*" (lazy) to cultivate this property. Because I am also an agriculturist and I also have a lot which is planted to this kind of plants and I know what will be the actual produce of the CROPS [inserted in the TSN] with a certain kind of land. If we consider the actual produce, it is very low. Because we are "*ogacon*" (lazy). What I am very much concerned is the kind of the land and then I asked them if we will have to cultivate the property properly, how much are we going to expect.**

Q **Do you mean to impress to us that while you conducted the ocular inspection, there were area which were not cultivated?**

A When I conducted the ocular inspection, I was able to classify an area of around 4.8 hectares which has no value at all, sir.

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x x x x x x x x x

Q **So you had the ocular inspection without anybody from the government or from the *barangay* going with you?**

A **Nobody but I told the *barangay* captain of the place that we will be going there for an ocular inspection and from the *barangay* captain, we have learned that that there is a subdivision for sale which is adjoining the subject properties for that much amount also.**

x x x x x x x x x

[On questioning by the SAC]

A (Perusing the report submitted by the Land Bank of the Philippines). This is a very low valuation, your honor.

Q Why?

A Considering that I did not take into consideration the valuation that was done by the Assessor's Office to the schedule of value because as an assessor, in gathering data, we have to base the valuation of every kind of property. It takes us a hard time to consolidate all these things because, first of all, one, the comparative sales approach, for example, your honor, we seldom find the consideration in a certain sale that is the true and actual selling price perhaps because of the implementation of the capital gains tax of the Bureau of Internal Revenue. Most of them are under valued. Now, that is why I based my valuation from the actual procedure. First of all I considered the kind of land thereon and thereby considered also the different kinds of perennial trees or plants and based on the actual interviews I conducted with the farmers, I arrived at the actual produce where I based my computation not really considering the assessor's value because it is only for taxation purposes. Nowhere in the Philippines that the government assessments are reliable.[19]

In stark contrast is the valuation made by witness Alcantara:

Q Mr. Witness, what rule is followed by Land Bank in arriving at the valuation as contained in this exhibit?

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[19] TSN, February 20, 1998, pp. 11-19. (Emphasis supplied.)

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A The guidelines followed by Land Bank: properties valued under Administrative Order No. 11 Series of 1996 based on the Honorable Court's Order dated November 14, 1996.

Q In Exh. "1", how many hectares were valued for the contemplated acquisition of the property?

A The area for acquisition under Title No. 86448 is 28.3062 hectares.

Q x x x Will you please explain why only a total of 28.3062 [hectares] was computed in the valuation of the property?

A Some portion of the property is hilly and mountainous which exceeded the 18% limit set forth under Section 10 of R.A. 6657. Said portions of land were mountainous and undeveloped and therefore excluded from acquisition under existing guidelines.

Q What is the basis of said exclusion from coverage?

A Section 10 of R.A. 6657.

Q Will you please explain to us the character, land use and condition of this particular land as described in Exh. "1"?

A The property which contains an area of 48.3062 hectares per title is planted to corn, peanut and a large portion is cogonal. The corn land is 13 hectares, peanut land is .25 hectares and the cogonal is 15.0562 hectares. A hilly portion which is about 18% slope and a mountainous portion which is about 25% slope totals 20 hectares. This portion is the excluded one.

Q Will you please tell this Honorable Court what factors were considered by Land Bank in arriving at the valuation of the property?

A The factor considered by Land Bank is under Formula No. 2 which is the capitalized net income (CNI) x 90% and the market value per tax declaration wherein we get the remaining 10%.

Q There appears a computation for the CNI. Will you please explain how the total value was arrived at?

A CNI for corn was taken from the average gross production based on the field investigation report multiplied by the selling price from the Department of Agriculture

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municipal data, arriving at a total CNI of ₱10,291.67 per hectare.

Q What about the computation for the market value per tax declaration (MVPT)? Will you explain how the total valuation for the MVPT was arrived at?

A The market value per tax declaration was based on the third classification as furnished to Land Bank by the Municipal Assessor's Office. The total MVPT as computed by Land Bank is ₱14,193.22, so, 10% of which is ₱1,419.32.

Q Now, after computing the CNI and the MVPT, what steps did you undertake to arrive at the total valuation of the property?

A We applied the applicable formula which is the CNI x 90% and the MVPT x 10%. The CNI total is ₱9,262.5 and the market value is ₱1,419.32. Summing up the total amount of the two factors, the value per hectare arrived at for corn land is ₱10,681.82 per hectare. So, if we will apply the amount arrived at for the value per hectare of corn, ₱10,681.82 x 13 has. for corn land, the total is ₱138,863.66. The for peanut land, the total amount is ₱3,535.66 and for the cogonal land where we used the market value per tax declaration multiplied by 2, the total is ₱117,126.09. Therefore, the total valuation of this 28.3062 portion of the property acquired by the government is ₱259,525.41.

x x x x x x x x x

A The total area acquired for Title No. 86449 is 22.3267 hectares out of 36.267 hectares per title.

Q What is the basis of your exclusion of the 14 hectares?

A This 14 hectares fall also under the hilly and mountainous portion which is about 18% slope.

Q x x x [D]id you apply the same rules and regulations covered by such valuation? Did you apply the same factors?

A Yes.

Q What is the total?

A The total valuation for this property [TCT No. 86449] is ₱217,223.60.

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x x x x x x x x x

Q Lastly, in Exh. "3", will you please tell us what is the area acquired for coverage under CARP?

A The area acquired is 6.5718 hectares out of 12.5718 has.

Q What is the area excluded for valuation?

A The area excluded for valuation falling above 18% slope is 6 hectares.

Q x x x [D]id you still adopt the same rules and regulations in computing the valuation?

A The same.

Q What is the total valuation [for TCT No. 86402]?

A The total valuation for Title No. 86402 for the 6.5718 hectares acquired by the government is ₱51,762.90.

x x x x x x x x x

Q Are there any guidelines under the law which limits or defines what can be used in the valuation of the property under the CARP?

A There are several valuations/formulas provided for under R.A. 6657 and Land Bank follows the applicable formula as reflected in the field investigation report. Therefore, our basis in determining which factors will be applied are the result of the field investigation report.

Q Will you please tell this Honorable Court what particular activities are to be taken for the purpose of being able to value the property?

A After determining the existence of the property, the DAR, Land Bank and other agencies concerned conduct an ocular inspection of the property being offered for sale under CARP or covered by the CARP. The data in-put were gathered in the field including the number of fruit bearing trees, they were also determined. The production data is also taken and a survey is being conducted in the field on adjacent properties. Said data were being compared with the record of the Municipal agriculturist and other officers.

Q Last question Mr. Witness, the total valuation of the subject property is as of what point of time?

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A The valuation of the property was based under Administrative Order No. 11 existing at the time of the valuation of the property.

x x x x x x x x x

COURT:

When was that?

WITNESS:

November 19, 1996.[20]

Clearly from the foregoing, the valuation of the subject properties by petitioner was based on data gathered by DAR and contained in its Field Investigation Report.[21] The data correctly reflected *actual use and produce* of the subject properties and did not factor in potential use as what respondent's appraiser did. In fact, we note that the data obtained by Oliva was based on his unofficial surveys of farmers and Chinese traders. Oliva readily dismisses government valuation as unreliable without proffering evidence to support his statement. This explains the big discrepancy in Oliva's Appraisal Report and petitioner's valuation.

While we commend respondent in readily participating in the government's agrarian reform program, our previous rulings preclude us from validating the valuation of the subject properties proffered to, and affirmed by, the SAC. The government cannot be forced to purchase land which it finds no need for, regardless of Oliva's unschooled opinion. Considering respondent's belief that the properties are worth more than the valuation made by the DAR, he can proceed to develop the land excluded by the DAR from expropriation into its potential use as assessed by Oliva.

Thus, replacing the valuation of the subject properties pursuant to the determination of petitioner where the LV was pegged using the formula {CNI x 90%} + {MV x 2}, we arrive at a different amount:

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[20] TSN, November 4, 1998, pp. 4-8.

[21] Folder of Exhibits, pp. 193-207.

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1) TCT No. T-86448 – carpable area – 28.3062 has.

Land Use:

A) Corn land
Area = 13.0000 has.
Value/Ha = ₱10,681.82/ha
Computation:
₱10,681.82/ha x 13.0000 has = ₱138,863.66

B) Peanut
Area = .2500
Value/Ha = ₱14,142.65/ha
Computation:
₱14,142.65/ha x .2500 has = ₱3,535.66

C) Cogonal
Area = 15.0562 has.
Value/Ha = ₱7,779.26/ha
Computation:
₱7,779.26/ha x 15.0562 has = ₱117,126.09

Total:

Corn land	-	₱ 138,863.66
Peanut	-	3,535.66
Cogonal	-	117,126.09
		₱259,525.41

2) TCT No. T-86449 – carpable area – 22.3267 has.

Land Use:

A) Corn land
Value/Ha = ₱10,681.82/ha
Area = 15.00 has
Computation:
₱10,681.82/ha x 15.0000 has = ₱160,227.30

B) Cogon:
Value/ha = ₱7,779.26/ha
Area = 7.3267 has
Computation:
₱7,779.26/ha x 7.3267 has = ₱56,996.30

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Total:

Corn land	- ₱160,227.30
Cogon	- 56,996.30
	₱217,223.60

3) TCT No. T-86402 – carpable area – 6.5718 has

Land Use:

A) Corn land

Value/ha = ₱7,992.31/ha
Area = 3.0000 has
Computation
₱7,992.31/ha x 3.0000 has = ₱23,976.94

B) Cogonal

Value/ha = ₱7,779.26/ha
Area = 3.5718 has
Computation:
₱7,779.26/ha x 3.5718 has = ₱27,785.96

Total:

Corn land	= ₱ 23,976.94
Cogonal	= 27,785.96
Total	= ₱ 51,762.90

TCT No. T-86448	- ₱259,525.41
TCT No. T-86449	217,223.60
TCT No. T-86402	51,762.90
TOTAL	₱ 528,511.91

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WHEREFORE, the petition is hereby *GRANTED*. The Decision of the Court of Appeals in CA-G.R. CV No. 68476 and the decision of the Regional Trial Court, Branch 3, Legazpi City, Albay, in Agrarian Case No. 95-01 are *REVERSED* and *SET ASIDE*. Petitioner Land Bank of the Philippines is hereby ordered to pay respondent Conrado O. Colarina the following amounts:

1. ₱259,525.41 for 28.3062 hectares of TCT No. 86448;
2. ₱217,223.60 for 22.3267 hectares of TCT No. 86449; and

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3. ₱51,762.90 for 6.5718 hectares of TCT No. 86402.

Petitioner shall pay twelve percent (12%) interest per annum from finality of this judgment until complete satisfaction thereof.

SO ORDERED.

Carpio (Chairperson), Bersamin,[*] *Abad,* and *Mendoza, JJ.,* concur.

FIRST DIVISION

[G.R. No. 176657. September 1, 2010]

DEPARTMENT OF FOREIGN AFFAIRS and BANGKO SENTRAL NG PILIPINAS, *petitioners, vs.* **HON. FRANCO T. FALCON, IN HIS CAPACITY AS THE PRESIDING JUDGE OF BRANCH 71 OF THE REGIONAL TRIAL COURT IN PASIG CITY and BCA INTERNATIONAL CORPORATION,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; COURTS; RULE ON HIERARCHY OF COURTS, RELAXED IN VIEW OF TRANSCENDENTAL IMPORTANCE OF AN ISSUE.— Although the direct filing of petitions for *certiorari* with the Supreme Court is discouraged when litigants may still resort to remedies with the lower courts, we have in the past overlooked the failure of a party to strictly adhere to the hierarchy of courts on highly meritorious grounds. x x x The Court deems it proper to adopt a similarly liberal attitude in the present case in consideration of the transcendental importance of an issue raised herein. This is the first time that the Court is confronted with the question of

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[*] Additional member in lieu of Associate Justice Diosdado M. Peralta per Special Order No. 882 dated August 31, 2010.