EN BANC

G.R. No. 244433 — ANTONIO R. CRUZ and LORETA TERESITA CRUZ-DIMAYACYAC, AS HEIRS OF THE LATE SPOUSES DR. PROGEDIO* R. CRUZ AND TERESA REYES, *petitioners, versus* **CARLING CERVANTES and CELIA CERVANTES SANTOS, and ALL PERSONS CLAIMING RIGHTS UNDER THEM,** *respondents.*

Promulgated:

April 19, 2022

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CONCURRING OPINION

CAGUIOA, *J.*:

I fully concur.

I submit this *Concurring Opinion* only to expound on the nuances of the twin requirements for mandatory referral set forth in Section 50-A of Republic Act No. (RA) 6657,[1] as amended by RA 9700,[2] the elements constitutive of an agrarian dispute which falls under the jurisdiction of the Department of Agrarian Reform (DAR), and the nature of evidence required to establish its existence.

For context, a brief background is in order.

This Petition for Review on *Certiorari* (Petition) stems from a complaint for unlawful detainer (Complaint) filed by petitioners Antonio R. Cruz and Loreta Teresita Cruz-Dimayacyac (collectively, petitioners), as heirs of the late spouses Progedio R. Cruz and Teresa Reyes (Spouses Cruz), against Carling Cervantes, Celia Cervantes Santos and their successors-in-interest (collectively, respondents).[3]

The Complaint concerns a parcel of agricultural land situated in Bulacan (subject property). Spouses Cruz are the owners of the subject property, while respondents are the heirs of the late Isidro Cervantes (Isidro), the alleged tenant of Spouses Cruz.

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* Also appears as "Prodegio" in some parts of the *rollo*.

1 AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES, June 10, 1988.

2 AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR, August 7, 2009.

3 *Rollo*, pp. 3-5.

The Complaint was dismissed by the Municipal Trial Court of Plaridel, Bulacan (MTC) on the ground of lack of jurisdiction based on the October 28, 2016 Certification issued by Engineer Emmanuel G. Aguinaldo of the Provincial Agrarian Reform Office of the DAR (DAR-PARO) characterizing the Complaint as an agrarian dispute cognizable by the DAR Adjudication Board (DARAB).[4] This dismissal was affirmed by the Regional Trial Court (RTC),[5] and later, the Court of Appeals[6] (CA). Hence, this Petition.

In the main, the Petition calls on the Court to determine whether the dismissal of the Complaint was proper. However, to aid the discussion that follows, it is fitting to further break down the main issue into two sub-issues — *first,* whether the MTC erred in **referring** the Complaint to the DAR-PARO for initial determination of the nature of the dispute involved; and *second,* whether the MTC erred in **relying** upon the DAR-PARO's determination.

Like the *ponencia,* I find that the MTC correctly referred the case to the DAR-PARO based on the concurrence of the twin requisites for mandatory referral set forth in Section 50-A of RA 6657, as amended.

Be that as it may, I find that the MTC gravely erred when it relied on the determination of the DAR-PARO despite the clear lack of substantial evidence to support such determination. In turn, this error resulted in the unwarranted dismissal of the Complaint on the ground of lack of jurisdiction. Accordingly, I join the *ponencia*'s order to reverse said dismissal and remand the Complaint for further proceedings.

The MTC did not err when it referred the Complaint to the DAR-PARO

RA 6657 vests the DAR with primary jurisdiction over agrarian reform matters and exclusive original jurisdiction over the implementation of agrarian reform, subject to narrow exceptions, thus:

> SEC. 50. *Quasi-Judicial Powers of the DAR.* — The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).
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4 Id. at 11.

5 RTC of Malolos City, Branch 15, through its Decision dated February 28, 2018 in Civil Case No. 138-M-2017 penned by Judge Alexander P. Tamayo; id. at 142-144.

6 Through its Decision dated September 27, 2018 and Resolution dated January 21, 2019, in CA-G.R. SP. No. 155023 penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justices Eduardo B. Peralta, Jr. and Germano Francisco D. Legaspi; id. at 30-44.

"Agrarian dispute" is defined under Section 3 of the same statute as follows:

> (d) Agrarian Dispute refers to **any controversy relating to tenurial arrangements**, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements.
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> It includes **any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries**, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee. (Emphasis supplied)

In 2009, RA 6657 was amended by RA 9700 for the purpose of strengthening the State's comprehensive agrarian reform program. Among the changes introduced by the amendatory law was the inclusion of Section 50-A in RA 6657 which sets forth the mandatory referral mechanism, thus:

> SEC. 50-A. *Exclusive Jurisdiction on Agrarian Dispute.* — No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the [Comprehensive Agrarian Reform Program (CARP)] except those provided under Section 57[7] of Republic Act No. 6657, as amended. **If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify within fifteen (15) days from referral whether an agrarian dispute exists**: *Provided*, That from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial court and the prosecutor's office, the appeal shall be with the proper regional trial court, and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals.
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> In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and/or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interests under the CARP.
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> The fact of non-registration of such associations with the Securities and Exchange Commission, or Cooperative Development Authority, or any concerned government agency shall not be used against them to deny the existence of their legal standing and interest in a case filed before such courts and quasi-judicial bodies. (Emphasis supplied)

Hence, under Section 50-A, referral to the DAR shall be mandatory when: (i) there is an allegation from any of the parties that the case is agrarian in nature; and (ii) one of the parties is a farmer, farmworker, or tenant.

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[7] Section 57 of RA 6657 prescribes the original and exclusive jurisdiction of Special Agrarian Courts over all petitions for the determination of just compensation, and all criminal offenses punishable thereunder.

In *Chailese Development Co., Inc. v. Dizon*[8] (*Chailese*) the Court clarified that unlike the first requisite which only requires an allegation by any of the parties that the case involves an agrarian dispute, the second requisite requires proof, thus:

> Contrary to the CA's conclusion and as opposed to the first requisite, mere allegation would not suffice to establish the existence of the second requirement. **Proof must be adduced by the person making the allegation as to his or her status as a farmer, farmworker, or tenant.**
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> The pertinent portion of Section 19 of R.A. No. 9700 reads:
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> > If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR x x x.
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> The use of the word "an" prior to "allegation" indicate that the latter qualifies only the immediately subsequent statement, *i.e.*, that the case is agrarian in nature. Otherwise stated, an allegation would suffice only insofar as the characterization of the nature of the action.
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> Had it been the intention that compliance with the second element would likewise be sufficient by a mere allegation from one of the parties that he or she is a farmer, farm worker, or tenant, the legislature should have used the plural form when referring to "allegation" as the concurrence of both requisites is mandatory for the automatic referral clause to operate.[9] (Emphasis supplied)

The Court's ruling in *Chailese*, particularly with respect to the requisites for mandatory referral, was subsequently reiterated in *Dayrit v. Norquillas*[10] (*Dayrit*), a recent case decided by the Court *en banc*.

In this regard, it should be stressed that the legislative intent to require, in relation to the second requisite, **proof** that one of the parties is a farmer, farmworker, or tenant is clear from the congressional records.

As stated, the mandatory referral mechanism was incorporated in RA 6657 through RA 9700. In turn, RA 9700 is the result of the consolidation of two bills — House Bill No. 4077 and Senate Bill No. 2666.

In the original draft of the House version filed on May 5, 2008, the first paragraph of Section 50-A was worded as follows:

> SEC. 11. Section 50 Republic Act No. 6657 is hereby amended by adding Section 50-A to read as follows:
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> "x x x

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8 826 Phil. 51 (2018).
9 Id. at 64.
10 G.R. No. 201631, December 7, 2021.

> "SEC. 50-A. *EXCLUSIVE JURISDICTION ON AGRARIAN-RELATED DISPUTE.* – NO COURT OR PROSECUTOR'S OFFICE SHALL TAKE COGNIZANCE OF CASES PERTAINING TO THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM EXCEPT THOSE PROVIDED UNDER SECTION 57 OF REPUBLIC ACT NO. 6657. **IF THERE IS AN ALLEGATION FROM ANY OF THE PARTIES THAT THE CASE IS AGRARIAN IN NATURE, OR ONE OF THE PARTIES IS A FARMER, FARMWORKER OR TENANT, THE CASE SHALL BE AUTOMATICALLY REFERRED BY THE JUDGE OR PROSECUTOR TO THE DAR WHICH SHALL DETERMINE AND CERTIFY WITHIN FIFTEEN (15) DAYS FROM REFERRAL WHETHER AN AGRARIAN DISPUTE EXISTS:** *PROVIDED*, THAT THE AGGRIEVED PARTY HAS JUDICIAL RECOURSE TO THE REGIONAL TRIAL COURT OR TO THE APPROPRIATE REGIONAL TRIAL COURT.
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> x x x x"[11] (Emphasis and underscoring supplied; original emphasis omitted)

The mandatory referral mechanism did not appear in the original draft of the Senate version. Nevertheless, it was later incorporated as Section 13 after the period of committee amendments.[12] The first paragraph of Section 13 adopted the following language:

> SEC. 13. A NEW SECTION 50-A IS HEREBY INSERTED TO READ AS FOLLOWS:
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> SEC. 50-A. *EXCLUSIVE JURISDICTION ON AGRARIAN RELATED DISPUTE.* – NO COURT SHALL TAKE COGNIZANCE OF CASES PERTAINING TO THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM EXCEPT THOSE PROVIDED UNDER SECTION 57 OF RA 6657. **ALL OTHER CASES FILED IN REGULAR COURTS OR OFFICE OF THE PROSECUTOR WHERE ONE OF THE PARTIES IS A FARMER, FARMWORKER OR TENANT, SHALL BE AUTOMATICALLY REFERRED TO THE DAR IF THERE IS AN ALLEGATION FROM ANY OF THE PARTIES THAT THE CASE IS AGRARIAN IN NATURE, UNLESS IT IS CLEAR FROM THE COMPLAINT THAT THE CASE INVOLVES ISSUES WHICH ARE SOLELY AGRARIAN IN NATURE, IN WHICH CASE THE COURT SHALL *MOTU PROP[R]IO* DISMISS THE CASE.** UPON REFERRAL OF A CASE BY A REGULAR COURT OR THE PROSECUTOR TO THE DAR, THE DAR SHALL, WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE COURT'S OR PROSECUTOR'S REFERRAL, DETERMINE IF THE CASE INVOLVES ISSUES WHICH ARE SOLELY AGRARIAN IN NATURE, SUCH FINDING SHALL BE CONCLUSIVE

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11 House Bill No. 4077, 14th Congress, 2nd Regular Session.

12 JOURNAL, SENATE 14TH CONGRESS 2ND REGULAR SESSION 75 (May 13, 2009), pp. 2168-2173.

> UPON THE REGULAR COURT OR PROSECUTOR, AND THE COURT OR PROSECUTOR SHALL THEREAFTER DISMISS THE CASE ON THE BASIS OF SUCH FINDINGS OF THE DAR. IF THE CASE INVOLVES ISSUES WHICH ARE NOT AGRARIAN IN NATURE, THE COURT OR PROSECUTOR SHALL SUSPEND ITS PROCEEDINGS IF THE DETERMINATION BY THE DAR OF THE ISSUES WHICH ARE AGRARIAN IN NATURE ARE INTIMATELY RELATED TO THE CRIMINAL OR CIVIL ACTION AND THE RESOLUTION OF SUCH ISSUES DETERMINES WHETHER OR NOT THE CIVIL OR CRIMINAL ACTION MAY PROCEED.
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> x x x x[13] (Emphasis and underscoring supplied)

The House and Senate versions were later reconciled through the Bicameral Conference Committee (BCC). Following a series of meetings, the BCC submitted its Conference Committee Report recommending that the reconciled version be approved.[14] The result was the final enrolled version which is now known as RA 9700. To reiterate, the first paragraph of Section 19 of RA 9700 reads:

> SEC. 19. Section 50 of Republic Act No. 6657, as amended, is hereby further amended by adding Section 50-A to read as follows:
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> "SEC. 50-A. *Exclusive Jurisdiction on Agrarian Dispute*. – No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the CARP except those provided under Section 57 of Republic Act No. 6657, as amended. If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify within fifteen (15) days from referral whether an agrarian dispute exists: *Provided*, That from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial court and the prosecutor's office, the appeal shall be with the proper regional trial court, and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals.
>
> x x x x"

The language of the House and Senate versions, as well as the final reconciled version all indicate the legislative intent to: (i) require the concurrence of the first and second requisites to trigger mandatory referral to the DAR; (ii) make a distinction between the treatment of the first and second requisites; and finally, (iii) require "proof" that one of the parties is a farmer,

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13 Id. at 2171-2172.

14 JOURNAL, SENATE 14TH CONGRESS 3RD REGULAR SESSION 4 (August 3, 2009), pp. 90-107.

farmworker, or tenant (as opposed to mere general allegation thereof), for the second requisite to concur.

Nevertheless, while it is clear that "proof" that one of the parties is a farmer, farmworker, or tenant should be submitted to the MTC for the aforesaid second requirement to concur, prevailing law and jurisprudence appear to be silent on the kind of proof that must be adduced. **On this score, I submit that such "proof" is composed of specific and clear allegations showing the indispensable elements of tenancy, *coupled with* any and all kinds of documents which, on their face, tend to show that such tenancy relationship exists between the parties, and that one of the parties is indeed a farmer, farmworker, or tenant.** In particular, the indispensable elements of tenancy which must be specifically alleged and supported by documents, if any, are: "(1) [t]hat the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee."[15]

It should be borne in mind that the mandatory referral mechanism is meant precisely to avert situations where the regular court proceeds to try an agrarian dispute over which it has no jurisdiction. It stands to reason then that the kind of proof that should be deemed sufficient by the MTC to establish the second requisite should be such that require only a facial assessment or determination that would indicate to a reasonable mind that a tenancy relationship does exist between the parties and that one of the parties is indeed a farmer, farmworker, or tenant. This is so because to require a higher standard of proof would necessarily result in protracted proceedings before the referring court and would thus negate the very purpose of the mandatory referral mechanism which is to afford DAR, precisely because of its expertise, the opportunity to make a determination on the nature of the dispute involved.

To reiterate, plain and unsupported allegations that one of the parties is a farmer, farmworker, or tenant will not suffice. For the second requisite to concur, there must be specific and clear allegations showing the indispensable elements of tenancy, coupled with documents which, on their face, tend to show that a tenancy relationship in fact exists between the parties, such that one of them stands as landowner, and the other, as farmer, farmworker, or tenant.

In this case, the MTC appears to have premised its referral to the DAR on the specific allegations made in respondents' Answer, as well as the annexes thereto, thus:

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[15] On the essential elements of tenancy, see *Chico v. Court of Appeals*, 348 Phil. 37, 42 (1998). Emphasis supplied.

> x x x [Respondents] x x x averred that petitioners have no cause of action against them because the latter never produced any proof that they have the sole right to succeed to the ownership of the subject parcel of land. It was also argued that the MTC has no jurisdiction over the complaint for unlawful detainer. **The subject property is an agricultural land** and **respondents are tenants** thereof. They succeeded in the tenancy rights of their father [Isidro] who was the tenant of petitioners' parents. As such, it is the [DARAB] which should determine the rights and obligations of the parties over the subject property.
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> Respondents further alleged that their father Isidro became the tenant of [Spouses Cruz] from 1965 to 2005 during which he cultivated the land and planted thereon *camote*, corn, *palay*, *mustasa*, tomato and fruit-bearing trees such as coconut and mango trees. Upon the death of their father, respondents continued to cultivate the property and planted thereon *palay*, string beans, eggplant, coconut, mango, and banana. They also raised livestock up to the present time. **Respondents likewise paid compensation to the owners** [Spouses Cruz], **as shown by a tally sheet** issued by C. Adella Rice Mill showing the following entry: "*Name: Mrs. Teresa Reyes Vda de Cruz; Kasama: Isidro Cervante[s]*"; **and a handwritten receipt dated March 31, 1992** with the following notations: "*Buwis sa Bakuran* x x x *ni Sidro Cervantes; Tinanggap ni Kapt. Peping Villalon* x x x". Hence, respondents prayed that the complaint for unlawful detainer be dismissed. x x x[16] (Emphasis supplied)

Recognizing the expertise of the DAR over the subject matter, and the mandate of Section 50-A of RA 6657, as amended, the MTC thus referred the Complaint to the former:

> It is very clear from the afore-quoted provision that once there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge to the DAR for the proper determination and certification as to whether or not an agrarian dispute exists in a particular case.
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> Pursuant to the provisions of [RA] 6657, as amended, and [RA] 9700, and the jurisprudential trend showing the Supreme Court's recognition of DAR as the administrative body of special competence and expertise granted by law with primary and exclusive original jurisdiction over agrarian reform matters, the Office of the Court Administrator issued OCA Circular No. 62-10 dated April 28, 2010 enjoining all the judges of the lower courts to strictly observe Section 50-A of [RA] 6657, as amended by [RA] 9700, and refer all cases before them alleged to involve an agrarian dispute to the [DAR] for the necessary determination and certification.[17]

The MTC cannot be faulted for referring the Complaint to the DAR.

Here, respondents clearly and vehemently alleged that the Complaint constitutes an agrarian dispute over which the DAR has jurisdiction.

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16 *Rollo*, p. 32.
17 Id. at 97.

Moreover, the statements in respondents' Answer constitute sufficient and clear allegations showing the elements of tenancy and were supported by documents annexed to their Answer. Specifically, respondents alleged that: (1) their father Isidro was the tenant of petitioners' parents who, at the time, were the owners of the subject property; (2) the subject property is agricultural land; (3) petitioners' parents consented to the tenancy relationship inasmuch as they received compensation therefor as allegedly shown by the tally sheet and the handwritten receipt presented by respondents as evidence; (4) the alleged tenancy relationship yielded the production of various agricultural crops; and (5) the subject property was personally cultivated by Isidro, and subsequently, by respondents.

In all, these constitute proof that the twin requirements for mandatory referral concur.

The MTC erred in relying on the initial determination made by the DAR-PARO

Nevertheless, while the MTC correctly referred the Complaint to the DAR in accordance with Section 50-A of RA 6657, as amended, it incorrectly relied on the DAR-PARO's determination in this particular case.

DAR Administrative Order No. 03-11[18] (DAR AO 03-11) details the procedure for the determination of jurisdiction concerning cases on referral. Its relevant sections state:

> SECTION 6. *Procedures.* —
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> 1. Upon receipt of the records of the case, the PARO shall, on the same day, immediately assign the said case to the Chief of the Legal Division of the DAR Provincial Office concerned for the conduct of a summary investigation proceedings for the sole purpose of determining whether or not an agrarian dispute exists or if the case is agrarian in nature. The Chief of the DAR Legal Division concerned may assign the case to a DAR lawyer or legal officer for the purpose of conducting the said summary proceeding or fact-finding investigation.
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> 2. The Chief of the DAR Legal Division, or the DAR lawyer or legal officer assigned shall, within three (3) days from receipt of the case referred from the PARO, personally or in such a manner that will ensure the receipt thereof (*e.g.*, commercial couriers, fax, electronic mail, phone call, etc.), serve upon each party to the case a notice stating therein the hour, date, and place of the proceedings. The summary proceedings shall be held, as far as practicable, in the municipality or barangay where the

[18] REVISED RULES AND REGULATIONS IMPLEMENTING SECTION 19 OF R.A. NO. 9700 (JURISDICTION ON AND REFERRAL OF CASES THAT ARE AGRARIAN IN NATURE), July 19, 2011, as amended by DAR Administrative Order No. 04-11, AMENDMENT TO DEPARTMENT OF AGRARIAN REFORM ADMINISTRATIVE ORDER NO. 03, SERIES OF 2011, August 16, 2011.

agricultural landholding is located or where the biggest portion of the landholding is located if the land overlaps two (2) or more municipalities or barangays. **The parties shall be required to present their witnesses, documentary evidence, or any object evidence to support their respective positions as to the existence of an agrarian dispute on whether the case is agrarian in nature.** The Chief of the DAR Legal Division, or the DAR lawyer or legal officer assigned shall require the Agrarian Reform Program Technologist (ARPT) of the place where the subject agricultural landholding is located to submit his[/her] comments thereto.

3. **The said notice shall likewise require the parties to submit their respective verified position papers, attaching thereto all their evidence, within five (5) non-extendible days from receipt of such notice.**

4. After the conclusion of the summary proceedings and the submission of all position papers, or upon the expiration of the five (5)[-]day period as provided herein, the matter or issue shall be deemed submitted for resolution. No other pleading or motion shall thereafter be received or given due course.

5. Within three (3) days from the time the matter or issue is deemed to be submitted for resolution, the Chief of the DAR Legal Division, or the DAR lawyer or legal officer assigned, shall, after a thorough examination of the testimonies of the parties and his/her witnesses, the respective verified position papers, and the documentary evidence thus submitted, submit his/her report to the PARO. The report shall indicate his/her initial findings of the facts and circumstances of the case and as to whether an agrarian dispute exists or not or on whether the case is agrarian in nature. The position papers, transcript of stenographic notes, and the entire records of the case shall be attached to the report.

The determination by the DAR as to whether an agrarian dispute exists or not, or on whether the case is agrarian in nature, shall be done through a summary proceeding involving a strictly factual investigation. No motion for extension of time or any similar pleading of a dilatory character shall be entertained nor given due course. **To this end, the Chief of the Legal Division, or the DAR lawyer or legal officer assigned, shall exert all reasonable means to ascertain the facts based on the testimonies and evidence presented. They may verify the position papers submitted by the parties, ascertaining that the concerned party is the one causing the preparation thereof, and that the allegations therein are true based on personal knowledge or authentic records and documents.**

To preclude conflict of interest, in no case should the DAR lawyer serving as counsel for the farmer-beneficiary be assigned as the hearing officer. Moreover, no hearing officer should handle a case involving a relative within the fourth degree of consanguinity or affinity who is a party thereto.

SECTION 7. *Prima Facie Presumption of an Existence of Agrarian Dispute or that the Case is Agrarian in Nature.* — The presence of any of

the following facts or circumstances shall automatically give rise to a *prima facie* presumption that an agrarian dispute exists or that the case is agrarian in nature:

(a) A previous determination by the DAR that an agrarian dispute exists or that the case is agrarian in nature, or the existence of a pending action with the DAR, whether an Agrarian Law Implementation (ALI) case or a case before the DAR Adjudication Board (DARAB), which involves the same landholding;

(b) A previous determination by the National Labor Relations Commission or its Labor Arbiters that the farmworker is/was an employee of the complainant;

(c) A notice of coverage was issued or a petition for coverage under any agrarian reform program was filed on the subject landholding; or

(d) Other analogous circumstances.

If there is a *prima facie* presumption that an agrarian dispute exists or that the case is agrarian in nature, the burden of proving the contrary shall be on the party alleging the same.

SECTION 8. *Facts Tending to Prove that a Case is Agrarian in Nature.* — In addition to the instances mentioned in Section 7 hereof, the Chief of the Legal Division, or the DAR lawyer or legal officer assigned, in determining whether the case is agrarian in nature, shall be guided by the following facts and circumstances:

1. Existence of a tenancy relationship;

2. The land subject of the case is agricultural;

3. Cause of action involves ejectment or removal of a farmer, farmworker, or tenant;

4. The crime alleged arose out of or is in connection with an agrarian dispute (*i.e.*, theft or qualified theft of farm produce, estafa, malicious mischief, illegal trespass, *etc.*), Provided, that the prosecution of criminal offenses penalized by [RA] 6657, as amended, shall be within the original and exclusive jurisdiction of the Special Agrarian Courts;

5. The land subject of the case is covered by a Certificate of Land Ownership Award (CLOA), Emancipation Patent (EP), or other title issued under the agrarian reform program, and that the case involves the right of possession, use, and ownership thereof; or

6. The civil case filed before the court of origin concerns the ejectment of farmers/tenants/farmworkers, enforcement or rescission of contracts arising from, connected with, or pertaining to an Agribusiness Ventures Agreement (AVA), and the like.

The existence of one or more of the foregoing circumstances may be sufficient to justify a conclusion that the case is agrarian in nature. The Chief of the Legal Division, or the DAR lawyer or legal officer assigned, shall accordingly conclude that the case is agrarian in nature cognizable by the DAR, and thus recommend that the referred case is not proper for trial.

SECTION 9. *DAR Certification.* — The PARO shall issue the Certification within forty-eight (48) hours from receipt of the report of the Chief of the Legal Division, DAR lawyer, or legal officer concerned. Such Certification shall state whether or not the referred case is agrarian in nature, as follows:

(a) ***Where the case is NOT PROPER for trial for lack of jurisdiction:***

After a preliminary determination of the relationship between the parties pursuant to Section 50-A of R.A. No. 6657, as amended, this Office hereby certifies that the case is agrarian in nature within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring (court/prosecutor) that the case be dismissed for lack of jurisdiction.

(b) *Where the case is NOT YET PROPER for trial due to a prejudicial question*:

After a preliminary determination of the relationship between the parties pursuant to Section 50-A of R.A. No. 6657, as amended, this Office hereby certifies that a prejudicial question exists the determination of which is agrarian in nature and thus within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring (court/prosecutor) that the case be archived until the determination of the DAR of the prejudicial question.

(c) *Where the case is PROPER for trial:*

This Office hereby certifies that the case is not agrarian in nature. It is therefore recommended to the referring (court/prosecutor) to conduct further proceedings.

The Certification shall state the findings of fact upon which the determination by the PARO was based. (Emphasis and underscoring supplied; italics in the original)

From the foregoing, it is clear that upon referral, the DAR-PARO is required to conduct a summary investigation to ascertain the relevant facts and make an initial determination as to whether the case so referred is an agrarian dispute based on the testimonies of the parties' witnesses, their evidence, and/or position papers. Thereafter, it must issue a Certification stating its initial determination which "shall state the findings of fact upon which the determination by the PARO" is based.

Here, the October 28, 2016 Certification issued by the DAR-PARO states, in full:

CERTIFICATION

> After a preliminary determination of the relationship between the parties in Civil Case No. 139-16 entitled Antonio R. Cruz[,] et al. vs. Carling Cervantes, [et] al., pursuant to Section 50-A of R.A. 6657 as amended, this Office hereby certifies that the case is agrarian in nature for it involves an agricultural land and the cause of action is ejectment of a farmer, farmworker, or tenant which is within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring MTC of Plaridel, Bulacan that the case be dismissed for lack of jurisdiction.
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> Baliuag, Bulacan, October 28, 2016.[19]

The foregoing Certification, on its face, utterly fails to comply with the standards set forth in DAR AO 03-11. The Certification is bereft of any reference to the relevant facts on which its determination is based. Worse, the Certification leaves the courts with absolutely no basis to ascertain the evidence from which its findings were drawn. Simply stated, the DAR-PARO Certification told the MTC nothing that it did not already know prior to referral. Thus, when the MTC adopted the DAR-PARO's Certification *in toto* and dismissed the Complaint for lack of jurisdiction, this constituted grave error.

To reiterate, the mandatory referral mechanism is a procedural tool through which the DAR is given the first opportunity to determine whether a case falls within its jurisdiction. Its determination, however, is recommendatory in nature and remains subject to judicial recourse. This is clear from Section 12 of DAR AO 03-11:

> SECTION 12. *Recommendation of the PARO is Final.* — The recommendation of the PARO is final and non-appealable. Any party who may disagree with the recommendation of the PARO has judicial recourse by submitting his/her/its position to the referring Court or Office of the Public Prosecutor in accordance with the latter's rules.

As stated, while courts are bound to comply with the referral mechanism upon concurrence of the twin requisites in Section 50-A of RA 6657, they are not necessarily bound to accept the recommendation where, for instance, such determination (*i.e.*, the DAR-PARO Certification) is clearly violative of the procedures and requirements set by DAR AO 03-11. Stated otherwise, the referring courts must still assess the recommendation of the DAR in light of the evidence presented during the latter's summary investigation. While the findings of quasi-judicial and administrative bodies are generally entitled to respect, this general rule does not hold in cases where such findings are contrary to, or unsupported by, the evidence on record.

On this score, it bears emphasizing that under RA 6657, the findings of fact of the DAR shall only be final and conclusive if they are based on

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[19] *Rollo*, p. 11.

substantial evidence.[20] **Thus, in cases where the DAR's recommendation rests on shaky foundations, the referring court must make its own determination and take cognizance of the case in question should it appear to be one which falls squarely within its general jurisdiction.**

At this juncture, I find it apt to reiterate my observations in *Dayrit*:

> x x x [T]he preliminary determination of the DAR that a case is *not* an agrarian dispute does *not* preclude the courts from later dismissing the case in question for lack of jurisdiction if it later becomes apparent during trial that the case is, in fact, agrarian in nature which must be resolved by the DAR at the first instance. Conversely, a preliminary determination by the DAR that the case *is* an agrarian dispute does not preclude it from referring the case back to the regular courts if its preliminary determination is later negated by the matters that come to fore during its own proceedings. To stress, jurisdiction is conferred by law and determined by the allegations in the complaint, including the character of the reliefs prayed for. Thus, if further proceedings reveal that the nature of the case differs from how it had been initially characterized, it becomes incumbent upon the adjudicative body concerned to dismiss the case, as any decision rendered without jurisdiction shall be null and void.
>
> **Hence, lest there be any confusion, it should be clarified that the mandatory referral mechanism does not limit the jurisdiction of the referring court or DARAB, as the case may be, to subsequently take cognizance of cases properly falling within their respective jurisdictions when the preliminary determination made pursuant to the mandatory referral mechanism is later found to be erroneous.** To be sure, a contrary interpretation would effectively defeat the jurisdiction vested by law upon the adjudicative body concerned.[21] (Emphasis supplied)

Again, an "agrarian dispute" falling under the primary jurisdiction of the DAR is defined under RA 6657 as follows:

> (d) Agrarian Dispute refers to **any controversy relating to tenurial arrangements**, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements.
>
> It includes **any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries**, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.[22] (Emphasis supplied)

In turn, the indispensable elements of a tenancy relationship, as previously stated, are: "(1) [t]hat the parties are the landowner and the tenant

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20 RA 6657, Sec. 54.

21 *J.* Caguioa, Concurring Opinion in *Dayrit v. Norquillas*, supra note 10, at 5.

22 RA 6657, Sec. 3.

or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee."[23]

Here, respondents vehemently claim that a tenancy relationship existed between their father Isidro and petitioners' parents, Spouses Cruz. As basis, respondents solely rely on: (i) the tally sheet issued by Adella Rice Mill identifying Isidro as "*kasama*" of petitioners' late mother Teresa Reyes Vda. de Cruz; and (ii) a handwritten receipt issued by one *Kapitan* Peping Villalon acknowledging Isidro's payment for "*Buwis sa Bakuran*".

However, as keenly observed by Senior Associate Justice Estela M. Perlas-Bernabe, there is nothing in these documents which would suggest that Spouses Cruz consented to the alleged tenancy relationship or that the parties agreed to share in the harvests, considering that Spouses Cruz neither signed these documents, nor participated in their issuance.[24] Clearly, the third and sixth elements of tenancy are absent.

As well, the tenor of these documents does not indicate the circumstances surrounding their issuance and how these relate to the alleged tenancy agreement. Did Spouses Cruz authorize Isidro to remit harvests to Adella Rice Mill on their behalf? Did *Kapitan* Peping Villalon have any authority to accept "*buwis*" on Spouses Cruz's behalf? On which dates were these documents issued? In the absence of substantial evidence which tend to shed light on these matters, these vague and uncorroborated documents cannot be taken as sufficient proof of a tenancy relationship between Spouses Cruz and Isidro. Accordingly, I find that the Complaint remains an ordinary ejectment case which falls under the jurisdiction of the MTC.

For these reasons, I vote to **GRANT** the present Petition and **REMAND** the Complaint to the Municipal Trial Court of Plaridel, Bulacan for further proceedings.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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[23] On the essential elements of tenancy, see generally *Chico v. Court of Appeals*, [illegible]

[24] See Concurring Opinion of *J.* Perlas-Bernabe, pp. 4-5.