

AN EMPIRICAL STUDY OF COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP) CASES*

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ABSTRACT

The Comprehensive Agrarian Reform Program (CARP) was conceptualized to embody the policy of social justice in the Constitution. However, the CARP has, historically, evidenced favor to landowners, who have strategically filed cases against farmers and the Department of Agrarian Reform (DAR) in order to stall land acquisition and distribution at every step of the way. This study analyzes CARP cases decided by the Supreme Court from 2010 to 2018. By looking into the nature of cases that go all the way up to the Supreme Court along with the parties involved therein, a glimpse into the flaws of the program's design and implementation is made readily apparent. Doing so is also a way to check whether the highest court of the land has been faithful to its duty of protecting the economic and property rights of Filipino farmers. This study finds that, in line with the resource inequality theory, most of the CARP cases in the Supreme Court were brought by landowners, with many of them having been raised on procedural grounds. Of those that were decided on substantive grounds, most revolved around issues of just compensation and CARP coverage. Landowners had the greatest net advantage when the issue before the Court was the inclusion or exclusion of the subject property under CARP coverage. In general, however, government agencies and farmer-beneficiaries seem to have higher average success rates as petitioners or respondents compared to landowners. In cases between landowners and farmer-beneficiaries, the latter have a net advantage.

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“‘Land for the landless,’ a shibboleth the landed gentry doubtless has received with much misgiving, if not resistance, even if only the number of agrarian suits filed serves to be the norm. Through the years, this battle cry and root of discord continues to reflect the seemingly ceaseless discourse on, and great disparity in, the distribution of land among the people, ‘dramatizing the increasingly urgent demand of the dispossessed [...] for a plot of earth as their place in the sun.’ As administrations and political alignments change, policies advanced, and agrarian reform laws enacted, the latest being what is considered a comprehensive piece, the face of land reform varies and is masked in myriads of ways. The stated goal, however, remains the same: clear the way for the true freedom of the farmer.”

—Justice Presbitero Velasco, Jr.¹

I. INTRODUCTION

On June 28, 2018, farmers from different provinces marched to the gates of the Department of Agrarian Reform (DAR) Head Office to mark the 30th year of the implementation of the Comprehensive Agrarian Reform Program (“CARP”).² One of the protesters claimed that he was granted a certificate of land ownership award (“CLOA”) under CARP, but despite the landlord’s promise to shoulder his children’s education, he had only received the meager amount of “P[HP] 10,000 a year or just P[HP] 833 a month in profit-sharing dividends,” along with threats that he would be killed if he attempted to take the land.³

On the night of October 20, 2018, nine members of the National Federation of Sugar Workers (“NFSW”) were killed in Hacienda Nene, Sagay

¹Hacienda Luisita, Inc. v. Presidential Agrarian Reform Council [hereinafter “*Hacienda Luisita, Inc.*”], G.R. No. 171101, 653 SCRA 154, 202, July 5, 2011, citing *Ass’n of Small Landowners in the Phil., Inc. v. Sec’y of Agrarian Reform* [hereinafter “*Ass’n of Landowners*”], G.R. No. 78742, 175 SCRA 343, 352, July 14, 1989.

²Ralf Rivas, *Farmers still hungry after 30 years of agrarian reform*, RAPPLER, Jun. 28, 2018, at <https://www.rappler.com/nation/206027-comprehensive-agrarian-reform-program-implementation-30-years>.

³*Id.*

City, Negros Occidental while taking a nap after a land cultivation area or *bungkalan* activity.⁴ NFSW explained that land cultivation area or *bungkalan* is the act of occupying idle lands and cultivating the same as a form of protest against the “failure of the government’s land reform program and the landlords’ refusal to distribute land to the tillers.”⁵ The hacienda owner, allegedly, leased the land to the farmers under a contract that was about to expire. Although the DAR had issued a Notice of Coverage (“NOC”) to place the hacienda under the CARP, the farmers’ applications to be recognized as agrarian reform beneficiaries (“ARBs”) have yet to be granted despite being pending for years.⁶

The stories above are just some of the horrors surrounding the implementation of the CARP. Thirty years since the enactment of Republic Act No. 6657,⁷ or the Comprehensive Agrarian Reform Law (“CARL”) of 1988, and ten years since the celebrated passage of Republic Act No. 9700,⁸ or the Comprehensive Agrarian Reform Program Extension with Reforms (“CARPER”), the concept of “true freedom of the farmer[.]”⁹ as alluded to in the case of *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, is far from reality.

According to a report by the Philippine Statistics Authority (PSA), as of 2017, 4.77 million hectares of agricultural land have been distributed, benefitting about 2.8 million ARBs.¹⁰ This translates to 16% of the total 30 million hectares of Philippine land area—a percentage that is high even among other countries that have adopted land reform programs. For instance, Japan’s land reform program distributed only 1.76 million hectares or 4.7% of its total land area of 37 million hectares, and Taiwan’s land reform program distributed only 0.5 million hectares or 14% of its total land area of 3.62 million hectares. Indeed, the achievement of our agrarian reform program

⁴ *9 farmers killed at Negros Occidental Hacienda*, RAPPLER, Oct. 21, 2018, at <https://www.rappler.com/nation/farmers-killed-sagay-negros-occidental-hacienda-nene-october-20-2018>.

⁵ *Id.*

⁶ Marty Go, *Ex-farmer a person in interest in Negros hacienda massacre – police*, ABS-CBN NEWS, Oct. 22, 2018, at <https://news.abs-cbn.com/news/10/22/18/ex-farmer-a-person-of-interest-in-negros-hacienda-massacre-police>.

⁷ [Hereinafter “CARL”] (1998). Comprehensive Agrarian Reform Law of 1988.

⁸ [Hereinafter “CARPER”] (2009). Comprehensive Agrarian Reform Program Extension with Reforms.

⁹ *Ass’n of Landowners*, 175 SCRA 343, 392.

¹⁰ Phil. Statistics Auth., *Redistribution of Land*, AGRIC. INDICATORS SYS., Nov. 2018, at 1, 2 available at https://psa.gov.ph/sites/default/files/ais_redistributionofland_2018.pdf.

may be considered a singular feat.¹¹ However, the quality of land distribution has been questioned in terms of the type of agricultural lands that have been distributed, the legitimacy of land reform beneficiaries, and the indefeasibility of the awarded lands' titles.¹²

Under the CARPER, the issuance of NOCs for new agrarian lands had to be completed by June 30, 2014. Currently, however, over 500,000 hectares of undistributed lands that have been issued with NOCs have yet to be awarded to ARBs.¹³ Instead of receiving title to the land that they have tilled for generations, "farmers are getting killed for demanding their right to [the] land."¹⁴ Violent clashes ensue between protesting farmers and private security forces of landlords who refuse to honor titles issued by the DAR.¹⁵

Landowner resistance may also be by non-violent means. Dummy beneficiaries are settled by landlords on land meant for the landless.¹⁶ Landowners also subdivide their land for relatives to take advantage of the retention area allowed by law, thus retaining the landholdings among family properties.¹⁷ They also keep filing cases against farmers and the DAR, stalling land acquisition and distribution at every step of the way.¹⁸ Among the most common are petitions for exemption from CARP coverage filed by landlords and corporations who own large holdings.¹⁹ There is also the problem of collective CLOAs that were issued during the 1990s to fast-track land distribution, especially in sugarcane plantations, failing to delineate individual lots. These collective CLOAs create boundary disputes and conflicting claims among ARBs.²⁰

¹¹ Raul Fabella, *Comprehensive Agrarian Reform Program (CARP): Time to Let Go*, 51 PHIL. REV. ECON. 1, 2 (2014).

¹² Manife Ballesteros et al., *The Comprehensive Agrarian Reform Program After 30 Years: Accomplishments and Forward Options*, PHIL. INST. FOR DEV. STUD. DISCUSSION PAPER SERIES, No. 2017-34, Dec. 2017, at 4, available at <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1734.pdf>

¹³ Melvin Gascon, *Duterte order agrarian 'rebirth' in PH*, INQUIRER.NET, May 4, 2018, at <https://newsinfo.inquirer.net/987691/duterte-orders-agrarian-rebirth-in-ph>.

¹⁴ Rina Chandran, *Philippine peasants fight for land 30 years after reform*, REUTERS, May 31, 2018, at <https://www.reuters.com/article/uk-philippines-landrights-farming-featur/philippine-peasants-fight-for-land-30-years-after-reform-idUSKCN1IW04K>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Joe-Anna Marie Abelinde & Luis de la Rosa, *Is agrarian reform a dying issue?*, RAPPLER, Feb. 26, 2018, at <https://r3.rappler.com/views/imho/196826-agrarian-reform-dying-issue>.

¹⁸ *Id.*

¹⁹ Chandran, *supra* note 14.

²⁰ Abelinde & de la Rosa, *supra* note 17.

Land grabbing and land-use conversions are also commonplace, even in landholdings that have been covered for distribution.²¹ Agricultural lands meant to be distributed to farmers are turned into real estate, tourism, and mining projects, as well as special economic zones.²² The transformation of the countryside by real estate developers also encourages local government units to expropriate agricultural lands for commercial purposes.²³

The CARL and CARPER failed to “clear the way for the true freedom of the farmer”²⁴ due to the legal and judicial entanglements arising from the aforementioned issues. In a study by the Center for Agrarian Reform and Rural Development in cooperation with the DAR, it was found that the “DAR receive[d] an average of 35,000 agrarian cases every year,” while landowners challenged the jurisdiction of DAR over agrarian cases by bringing them before the trial courts.²⁵ Such cases include questions on the identification and selection of farmer-beneficiaries, disputes between farmers over awarded lands, disputes between DAR and landowners over land valuation, land conversion, among others.²⁶ Moreover, it was found that between 2012 and 2013, there was a 4.6% increase in the number of cases filed by resistant landowners at the Agrarian Reform Adjudication Board.²⁷

Prolonged agrarian disputes leave the lands idle, the farmers without income, and local government units without revenues in the form of unpaid property taxes on the disputed lands. Farmers suffer the most from protracted litigations, because aside from the loss of livelihood for a long period of time, there are additional costs involved in following up their cases.²⁸ This is aggravated when the cases are appealed all the way up to the Supreme Court.

This Note provides a detailed description of CARL and CARPER cases decided by the Supreme Court from 2010 to 2018. It looks at the issues

²¹ Eduardo Climaco Tadem, *Can Duterte fix agrarian reform?*, INQUIRER.NET, June 19, 2016, at <https://opinion.inquirer.net/95277/can-duterte-fix-agrarian-reform>.

²² *Id.*

²³ *Id.*

²⁴ *Hacienda Luisita, Inc.*, 653 SCRA 154, 202.

²⁵ Joe-Anna Marie Casidsid et al., *Rationalizing Public Expenditures In Agrarian Justice Delivery: A Research For Budget Transparency In Agrarian Reform* (Ctr. for Agrarian Reform and Rural Dev., Quezon City), Sept. 2011, at 10, available at <https://www.carrd.org.ph/documentations/11>.

²⁶ *Id.* at 11.

²⁷ Eduardo Climaco Tadem, Speech delivered on Philippine Agrarian Reform in the 21st Century, Chiang Mai University, Thailand, at 3 (June 2015), available at https://www.iss.nl/sites/corporate/files/CMCP_D2-Tadem.pdf.

²⁸ Casidsid et al., *supra* note 25, at 11.

Justices had to face in deciding these cases, and also describes the common characteristics of the petitioners and the respondents. Ultimately, this Note aims to explore the case characteristics that significantly contribute to the likelihood of the case being decided in favor of the farmers.

The data used in this study were taken from Supreme Court decisions on issues involving the CARP. The period covered in this study is marked by a policy shift following the enactment of the CARPER in late 2009. Remarkably, former Chief Justice Renato Corona was also appointed to head the highest court of the land in that period. There was also a change in administration following the election of former President Benigno Aquino III, which meant that a newly appointed Secretary, in the person of Virgilio delos Reyes, took the helm of the DAR. This was also the time when the former President selected his first Supreme Court appointee.

Specifically, this Note aims to answer the following research questions:

1. What is the nature of the CARP cases brought to the Supreme Court? What issues do they deal with? Do they mostly deal with procedural issues (i.e. jurisdiction), or do they also deal with substantive issues (e.g. coverage, land valuation, target beneficiaries, manner of acquisition, actual distribution of lands)?
2. Who are the petitioners and respondents in the CARP cases brought before the Supreme Court? Who are more likely to bring a CARP case to the Supreme Court: Landowners, farmer beneficiaries, or state actors?
3. Who is more likely to win in the Supreme Court? Are there factors that significantly affect the decision of the Supreme Court in agrarian reform cases brought before it?

Analyzing these cases may provide a glimpse into the design and implementation flaws of the program, particularly in agrarian justice delivery. It may show how the achievement of the true freedom of the farmer is being hampered by various legal, technical, judicial, and administrative obstacles. It may also give an insight on the significance of the parties involved, as well as the balance of power between them. Most importantly, it can show whether the Supreme Court, as “the last bulwark in which the Filipino people may

repair to obtain relief[.]²⁹ has been effective in protecting the economic and property rights of Filipino farmers.

The next part of this Note will be a discussion of the CARL and CARPER's historical background, as well as their respective contributions to agrarian reform legislation. This also includes the sociopolitical context of these legislations, as reflected in controversial provisions of the laws and administrative issuances, as well as a landmark decision of the Supreme Court. This will be followed by a more thorough discussion of issues and controversies in the CARP's implementation, as well as the dispute resolution mechanisms in place to address the same, based on previous studies that have analyzed Supreme Court decisions on CARP cases. This Note also explores the resource inequalities theory and its application, generally, in cases decided by the Supreme Court, particularly in CARP cases. An empirical analysis of 120 CARP cases decided by the Supreme Court since 2010 is then presented. Considering the penchant of landowners to use legal remedies to dodge the government's agrarian reform program and to derail the process of land acquisition and distribution,³⁰ this empirical analysis attempts to show whether the Supreme Court will tilt the balance in favor of the law's intended beneficiaries.³¹

II. HISTORY OF AGRARIAN REFORM LAW

A. Legal Developments

As early as 1902, steps towards land reform have been taken to address social unrest.³² The pioneer measure for land reform was the Friar Lands Act of 1902, which primarily sought to address the excesses of the friars, who controlled most agricultural estates.³³ This was followed by the

²⁹ *In re Sotto*, 82 Phil. 595, 602 (1949).

³⁰ Jonathan L. Mayuga, *Giving Land to Farmers: Quousque Tandem?*, BUSINESSMIRROR, May 16, 2018, available at <https://businessmirror.com.ph/2018/05/16/giving-land-to-farmers-quousque-tandem/>.

³¹ Dante B. Gatmaytan, *The Construction and Constriction of Agrarian Reform Law*, 73 PHIL. L.J. 661, 666 (1999).

³² *Hacienda Luisita, Inc.*, 653 SCRA 154, 203, citing YUJIRO HAYAMI ET AL., TOWARD AN ALTERNATIVE LAND REFORM PARADIGM: A PHILIPPINE PERSPECTIVE 53 (1990).

³³ Act No. 1120 (1902). See also Ballesteros et al., *supra* note 12, at 5.

Rice Share Tenancy Act of 1933,³⁴ which regulated relationships between landlords and tenants of rice.³⁵

The 1935 Constitution introduced provisions on social justice, ensuring the well-being and economic security of all the people, especially the less privileged.³⁶ It was an opportune time to introduce the same, as the 1930s was a time of peasant uprisings such as the *Sakdalista* movement.³⁷ Peasants' and workers' organizations banded together to form *Hukbo ng Bayan Laban sa Hapon*, or *Hukbalahap*, and took up arms during World War II. When problems of land tenure worsened after the war, the *Hukbalahap* continued the peasant uprisings in the 1950s.³⁸

In 1955, during the administration of former President Ramon Magsaysay, the Land Reform Act³⁹ was enacted, mandating the expropriation of all tenanted estates. However, retention limits for ownership of private agricultural lands were set at very high levels—300 hectares of contiguous lands planted to rice, 600 hectares for corporate farms, and 1,024 hectares for private farms other than rice.⁴⁰ Moreover, the acquisition of landed estates “was not confiscatory but voluntary on the part of the landowner or as requested by a majority of the tenants” (i.e. at least one-third of tenants).⁴¹

In 1963, during the term of former President Diosdado Macapagal, the Agriculture Land Reform Code⁴² abolished share tenancy and converted all instances of share tenancy into leasehold tenancy.⁴³ It created the Land Bank of the Philippines (“Land Bank”) to provide support in all phases of agrarian reform.⁴⁴ It also provided for the compulsory acquisition of private lands (individual and corporate farms) and lowered the ceiling on agricultural landownership to 75 hectares.⁴⁵

³⁴ Act No. 4054 (1933).

³⁵ Department of Agrarian Reform (DAR), *Agrarian Reform History*, DAR WEBSITE, at <http://www.dar.gov.ph/about-us/agrarian-reform-history/>.

³⁶ *Ass'n of Small Landowners*, 175 SCRA 343, 352-53.

³⁷ *Heirs of Nuñez v. Heirs of Villanoza* [hereinafter “*Heirs of Nuñez?*”], G.R. No. 218666, 825 SCRA 264, 287, Apr. 26, 2017.

³⁸ *Id.* at 288.

³⁹ Rep. Act. No. 1400 (1955). Land Reform Act of 1955.

⁴⁰ *Ballesteros et al.*, *supra* note 12, at 3 n.2.

⁴¹ *Id.* at 5.

⁴² Rep. Act. No. 3844 (1963).

⁴³ *Hacienda Luisita, Inc.*, 653 SCRA 154, 203, *citing* *Salmorin v. Zaldivar*, G.R. No. 169691, 559 SCRA 564, 572, July 23, 2008.

⁴⁴ *Id.*

⁴⁵ *Ballesteros et al.*, *supra* note 12, at 5.

Thereafter, President Ferdinand Marcos issued Presidential Decree No. 27 or the Agrarian Code of 1972⁴⁶ which further lowered the ceiling on agricultural landownership to seven hectares and allowed confiscation of rice and corn farmlands which made up the bulk of agricultural production at that time.⁴⁷ Lands above the retention limit of seven hectares were placed under compulsory and confiscatory acquisition and were transferred to tenants occupying and cultivating them. For public lands, eligible tenant farmers received a Certificate of Land Transfer (CLT) from the Secretary of Agrarian Reform, although they were only allowed up to a maximum three hectares if irrigated or five hectares if unirrigated. For private agricultural lands, the beneficiary had to pay for the value of the land in equal amortization to Land Bank at 6% interest within 15 years. Upon completion of the amortization, the tenant would be deemed owner of the land and would be issued an Emancipation Patent (“EP”). Land valuation was based exclusively on agricultural production fixed at 2.5 times the annual yield valued at the government support price in 1972.⁴⁸

The 1987 Constitution made it a state policy to promote comprehensive rural development and agrarian reform.⁴⁹ Thus, Article XIII thereof provides:

The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.⁵⁰

It is worthy to note that the Constitution, itself, has set up limitations for the agrarian reform program, in the form of retention limits and the

⁴⁶ Pres. Dec. No. 27 (1972). Agrarian Code of 1972.

⁴⁷ Ballesteros et al., *supra* note 12, at 3.

⁴⁸ *Id.* at 6.

⁴⁹ CONST. art. II, § 21.

⁵⁰ Art. XIII, § 4.

payment of just compensation. Thus, this provision was seen as a means to balance the interests of landowners and tenants.⁵¹

On June 15, 1988, the CARL took effect, ushering in a new process of land classification, acquisition, and distribution.⁵² It was dubbed as a comprehensive law because it expanded from primarily rice and corn lands to all agricultural lands, and its target beneficiaries had included both tenants and regular farmworkers.⁵³ It further lowered the ceiling on agricultural landownership to five hectares but allowed additional three hectares for each heir aged at least 15 years old and actually tilling the land or directly managing it. The law also provided for support services to ARBs.⁵⁴

However, it also allowed for several exemptions from CARP coverage, such as “military reservations, penal colonies, educational and research fields, ‘timberlands’, undeveloped hills with 18 degrees slope[,] and church areas.”⁵⁵ Permanent exclusions were granted on private farms directly, permanently, and exclusively used for prawn farming or fishponds, and for commercial livestock and poultry raising.⁵⁶

For the payment of just compensation, Land Bank was tasked to determine land valuation based on a formula provided by DAR. Landowners were given the option to appeal the valuation to a special agrarian court or a regular judicial court, being the final arbiter in determining just compensation. On the other hand, lands that have been paid by the government through Land Bank (i.e. compensable lands) are amortized by beneficiaries over 30 years with 6% annual interest.⁵⁷

Private lands may be acquired under CARL through four modes. The first is by operation land transfer (“OLT”), usually employed for rice and corn lands under P.D. No. 27. The second is by compulsory acquisition, wherein the government expropriates private lands with or without the cooperation of landowners. The third mode is by voluntary offer to sell (“VOS”), which incentivizes landowners to willingly offer their land for coverage by raising the cash portion of landowners’ compensation by 5%, with a corresponding 5% decrease in the bonds portion. The fourth is by voluntary land transfer (“VLT”), which allows landowners to directly transfer their lands to tenants

⁵¹ *Heirs of Nuñez*, 825 SCRA 264, 297.

⁵² *Hacienda Luisita, Inc.*, 653 SCRA 154, 205.

⁵³ *Ballesteros et al.*, *supra* note 12, at 6.

⁵⁴ *Id.* at 7.

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 7.

⁵⁷ *Id.*

and workers under mutually agreed land value and payment terms. Under the last mode, it is the responsibility of the DAR to ensure that the terms of the contract are not less favorable to peasants than if it were the government purchasing the land.⁵⁸

The CARL also features transfers that do not involve the actual transfer of land ownership but promotes changes in or improvement of property rights over land assets. This may be through Leasehold Operation (“LHO”), which is “a lease agreement between landowner and tenant applied to agriculture lands not covered by CARP (e.g. below [five] hectares or on retained agriculture lands of owners);” or Stock Distribution Option (“SDO”), “whereby corporate landowners give their farm workers the right to purchase a proportion of the capital stock of the corporation in relation to the value of the agricultural land actually devoted to agricultural activities and in relation to the company’s total assets.”⁵⁹

Another principal component of the CARL is agrarian justice delivery through agrarian legal assistance and adjudication of agrarian cases. Legal assistance involves the resolution of agrarian law implementation (“ALI”) cases, representation of ARBs by DAR lawyers before judicial and quasi-judicial bodies, and provisions of alternative dispute resolution services such as mediation and conciliation. Adjudication of cases involves the resolution of cases by the DAR Adjudication Board (“DARAB”).⁶⁰

In 2009, CARPER extended and introduced reforms to CARL. One of the strongest and most progressive changes made by CARPER involved the removal of the voluntary land transfer option,⁶¹ and of the option for judicial expropriation as a means for implementation of land reform in the country. The latter was based on observations of the inefficiencies of said process, and the belief that the shift from judicial expropriation to administrative distribution allows for a more speedy and efficient reform process. Under CARPER, all cases involving cancellation of CLOAs and other titles issued under any agrarian reform program are now under the exclusive and original jurisdiction of the DAR.⁶² This change was believed to

⁵⁸ *Id.*

⁵⁹ *Id.* at 7–8.

⁶⁰ Marvic Leonen, *CARP Institutional Assessment in a Post-2008 Transition Scenario: Reforms for the Agrarian Justice System*, PHIL. INST. FOR DEV. STUD. DISCUSSION PAPER SERIES, No. 2008-10, Mar. 2008, available at <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps0810.pdf>

⁶¹ CARPE, § 5.

⁶² *Sutton v. Lim*, G.R. No. 191660, 686 SCRA 745, 756, Dec. 3, 2012.

have made CARP less of a slave to the struggling dockets in courts around the country.

Under the CARPER, qualified ARBs were given usufructuary rights over the awarded land as soon as the DAR took possession of the same. Such right could not be diminished even pending the awarding of the EP or CLOA.⁶³ This assured ARBs that they could occupy and take control of the awarded land, pending the issuance of a paper title. Moreover, it was provided that no injunction or temporary restraining order (“TRO”), except those from the Supreme Court, may be issued against the DAR or the Presidential Agrarian Reform Council (“PARC”) with regard to disputes or issues decided by such offices. This put an end to the abusive practice of many landowners of filing injunctions and TROs in order to stall the distribution of land, and the subsequent transfer of ownership to the farmer-beneficiaries.⁶⁴

B. Sociopolitical Context of CARP and CARPER

There were high hopes for the enactment of an agrarian reform law that would epitomize the policy of social justice in the Constitution. However, both the CARL and CARPER were considered “the result of a compromise between pro and anti-agrarian reform blocs in Congress and thus also contained provisions inserted by landowner lobbyists that were considered loopholes in the law.”⁶⁵

As stated earlier, the CARP was considered to have paved the way for significant improvements like, including in its coverage all agricultural lands and the entire rural landless labor force. It was supposed to be a laudable achievement, especially when compared to the limited land reform programs in other countries such as Taiwan and Japan, in that those countries only covered rice lands and excluded other lands devoted to other crops.⁶⁶ However, the CARP was still a notoriously orphaned program,⁶⁷ having been drafted by “a legislature mainly composed and controlled by propertied elites.”⁶⁸ The law was believed to privilege: “(a) [C]orporate and commercial agribusinesses; (b) elites with large land assets; and to a lesser degree, (c)

⁶³ Jerome Patrick Cruz & Mary Ann Manahan, *CARPER Diem: A Socio-Legal Analysis of the State of the Comprehensive Agrarian Reform Program in the Aquino Administration*, 59 ATENEO L. J. 930, 945 (2014).

⁶⁴ *Id.*

⁶⁵ Tadem, *supra* note 27, at 1.

⁶⁶ Fabella, *supra* note 11, at 1.

⁶⁷ Cruz & Manahan, *supra* note 63, at 933.

⁶⁸ *Id.*, quoting Amando Doronila, *The Middle-Classness of Agrarian Reform*, MANILA CHRONICLE, June 4, 1988, at 8.

sectors of the rural middle class – all these at the expense of peasant lessors, share tenants, and most especially, landless rural workers.”⁶⁹ Its various loopholes to evade the substantive redistribution of landholdings include voluntary land transfers, deferment schemes on new commercial farms, vague procedures for identifying agrarian reform beneficiaries in commercial and corporate farms, profit-sharing, and large land lease schemes.⁷⁰

Moreover, the CARP provides unclear guidelines on land use conversions, thus allowing rent-seekers to take advantage of this loophole. Section 65 of the CARL states:

After the lapse of five (5) years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner, with due notice to the affected parties, and subject to existing laws, may authorize the reclassification or conversion of the land and its disposition: provided, that the beneficiary shall have fully paid his obligation.⁷¹

This tends to encourage the idling of land in order for it to fall under the provision allowing conversion. Moreover, because ARBs are usually not

⁶⁹ *Id.* at 935, citing Lourdes Saulo-Adriano, *A General Assessment of the Comprehensive Agrarian Reform Program*, PHIL. INST. FOR DEV. STUD. WORKING PAPER SERIES, No. 91-13, Aug. 1991, at 1, 26 available at <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidswp9113.pdf>.

⁷⁰ *Id.*

⁷¹ This was eventually amended by CARPER to read as follows:

SEC. 65. Conversion of Lands. — After the lapse of five (5) years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner with respect only to his/her retained area which is tenanted, with due notice to the affected parties, and subject to existing laws, may authorize the reclassification or conversion of the land and its disposition: Provided, That if the applicant is a beneficiary under agrarian laws and the land sought to be converted is the land awarded to him/her or any portion thereof, the applicant, after the conversion is granted, shall invest at least ten percent (10%) of the proceeds coming from the conversion in government securities: Provided, further, That the applicant upon conversion shall fully pay the price of the land: Provided, furthermore, That irrigated and irrigable lands, shall not be subject to conversion: Provided, finally, That the National Irrigation Administration shall submit a consolidated data on the location nationwide of all irrigable lands within one (1) year from the effectivity of this Act. "Failure to implement the conversion plan within five (5) years from the approval of such conversion plan or any violation of the conditions of the conversion order due to the fault of the applicant shall cause the land to automatically be covered by CARP.

able to fully pay their obligation even after five years, rent-seeking brokers and/or politicians come in to hasten the conversion.⁷²

In sum, the CARP was believed to contain anti-peasant and “pro-landlord provisions”⁷³ such as an omnibus list of exemptions, recognition of “fair market value” for landowner compensation, a payment amortization scheme that was considered unfavorable for beneficiaries, a long period of implementation, and a stock distribution option.

The stock distribution option was the subject of the landmark case of *Hacienda Luisita, Inc. v. Presidential Agrarian Reform Council*,⁷⁴ where the constitutionality of Section 31 of CARL, which permitted a stock transfer in lieu of an outright agricultural land transfer, was questioned. Basically, the stock distribution option grants stock certificate ownership to farmers or farmworkers instead of land ownership. In the case, it was argued that the questioned mode of distribution was contrary to agrarian reform as envisaged in the Constitution. The Supreme Court held that there was no breach of the fundamental law, because the Constitution, itself, expressly provides that farmers and regular farmworkers have a right to own directly or collectively the lands they till.⁷⁵ Thus, it was held that Section 4, Article XIII of the Constitution “does not constrict Congress to passing an agrarian reform law planted on direct land transfer to and ownership by farmers and no other, or else the enactment suffers from the vice of unconstitutionality.”⁷⁶ The Court also emphasized that this question of constitutionality was already a moot issue considering that the CARPER already removed the said option.⁷⁷ Thus, the Supreme Court held that “for all intents and purposes, the stock distribution scheme under Sec. 31 of RA 6657 was no longer an available option under existing law.”⁷⁸

Aside from deleting the stock distribution option as a mode of agrarian reform, the CARPER was lauded for provisions that favored beneficiaries, such as the indefeasibility of awarded beneficiary lands, recognition of usufruct rights of beneficiaries, a grace period for amortization payments, speeding up the process of awarding lands, disallowing the conversion of irrigable and irrigated lands, and automatic coverage of lands

⁷² Fabella, *supra* note 11, at 11.

⁷³ Cruz & Manahan, *supra* note 63, at 951.

⁷⁴ 653 SCRA 154

⁷⁵ CONST. art. XIII, § 4.

⁷⁶ *Hacienda Luisita Inc.*, 653 SCRA 154, 254.

⁷⁷ CARPER, § 5.

⁷⁸ *Hacienda Luisita Inc.*, 653 SCRA at 249.

targeted for conversion pending for at least five years.⁷⁹ However, it was still found to be anti-reform for expanding the list of exempted lands, thereby allowing local governments to acquire agricultural lands beyond the five-hectare retention limit and deprioritizing seasonal and other nonregular farmworkers as qualified beneficiaries.⁸⁰ Moreover, it allowed landowners to determine who would be beneficiaries and those excluded from the program, by requiring landowner attestation for the distribution of private agricultural lands to farmers. It provided that “only farmers (tenants or lessees) and regular farmworkers actually tilling the lands, as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested under oath by the landowners, [were] the qualified beneficiaries.”⁸¹ This mechanism allowed landowners to influence the land distribution process, opening the door to abuse.⁸²

In addition, it was observed that then DAR Secretary Virgilio Delos Reyes put too much emphasis on legal technicalities, as shown by his issuance of Administrative Order No. 7, Series of 2011, or the Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands. Sections 28 and 29 thereof were seen “as detrimental to the welfare of the farmers since they incentivize recalcitrant landowners to circumvent and even hold hostage the land distribution process by the mere filing of Protests against CARP Coverage and/or Petitions for Exemption/Exclusion.”⁸³ In effect, this allowed the land implementation process to be suspended pending the resolution of the protest or exemption/exclusion cases by the Office of the President.⁸⁴ It also allowed the landowner to file an exemption case within 60 days after the issuance of an NOC.⁸⁵ This caused delays in the process of distribution, which, in turn, resulted in catastrophic costs for farmers.⁸⁶

⁷⁹ Tadem, *supra* note 27, at 2.

⁸⁰ *Id.*

⁸¹ CARPER, § 5.

⁸² Cruz & Manahan, *supra* note 63, at 951.

⁸³ *Id.* at 973.

⁸⁴ DAR Adm. Order No. 07 (2009), § 29. Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands under Republic Act (R.A.) No. 6657, as Amended.

⁸⁵ § 28.

⁸⁶ Cruz & Manahan, *supra* note 63, at 976.

III. CONFLICTS AND DISPUTES IN CARP IMPLEMENTATION

There are six identified types of conflicting parties within the agrarian sector: First, disputes between landowners and the farmer beneficiary; second, conflicts between landowner and the state; third, those between the farmer beneficiary and the state; fourth, conflicts between farmer beneficiaries; fifth, disputes from putative landowners that delay or affect the implementation of any part of the agrarian reform program; and sixth, those involving participants in the agrarian reform program and third parties.⁸⁷

Likewise, there are four levels for the conflicts that take place between these parties: The first level is the identification of land for coverage; the second is the identification of beneficiaries; the third is in land survey and valuation; and the last is in the titling process.⁸⁸

In the identification of land for coverage, there are instances of multiple claims on the classification of land, such as when a piece of land is disputed to be agricultural/agrarian land, indigenous peoples' land, and protected site at the same time. To make matters worse, overlapping jurisdictions of different agencies over public agricultural lands also cause conflict.⁸⁹ There are also some lands classified as non-agricultural but are actually being used for agricultural purposes.⁹⁰ There are even times when landowners prevent the inclusion of their lands in the program by making it difficult for the DAR to secure and evaluate ownership documents and by filing legal cases to delay the process. Proper application of retention rights also cause confusion in determining land coverage. The DAR tried to address this through Administrative Order No. 9, Series of 2011, where it was given the authority to choose the retention area for the landowner.

In the identification of beneficiaries, conflicts arise among farmworkers claiming to be the beneficiaries of the lands they till.⁹¹ These create tension among conflicting groups, leading to violent incidents involving

⁸⁷ Leonen, *supra* note 60, at 2.

⁸⁸ Ballesteros et al., *supra* note 12, at 10–14.

⁸⁹ *Id.* at 10, *citing* FERMIN ADRIANO, SUSTAINING THE MOMENTUM OF INCLUSIVE GROWTH IN THE POST-CARP SCENARIO (2013) (Integrative report submitted to the Inter-Agency Committee on Institutional Arrangements for Land Management and Rural Development).

⁹⁰ *Id.*, *citing* Dabet Castaneda, *LGU's power to reclassify land helps landowners evade CARP*, ABS-CBN NEWS, Apr. 14, 2008, at <http://news.abs-cbn.com/special-report/04/14/08/1gus-power-reclassify-land-helps-landowners-evade-carp>.

⁹¹ *Id.* at 11, *citing* VIRGILIO DE LOS REYES, END OF TERM REP. OF SEC'Y VIRGILIO DE LOS REYES: FOR THE TERM FROM JULY 2010 – JUNE 2016 (2016).

their members.⁹² It is even more difficult to identify beneficiaries in haciendas and large plantations where there are different types of workers e.g. permanent, seasonal, and temporary farmworkers. The CARL does not distinguish the type of worker that could benefit from the program, but there are no clear guidelines regarding the proper identification of beneficiaries per piece of land.

Conflicts arising from the identification of land for coverage and identification of beneficiaries cause instability in property rights, as these could lead to the cancellation of awards or CARP-issued titles.⁹³ In the DAR report for the period of July 1, 2010 until April 30, 2016, it was noted that 405 cancellation cases were decided involving 1,532 CARP issued titles. Out of the 1,532 CARP issued titles, 1,025 were eventually cancelled. Out of the cancelled titles, 827 were cancelled in favor of their former landowners and 111 were cancelled in favor of another ARB. These lead to questions regarding the indefeasibility of CARP issued titles.

In the third level of land survey and valuation, most conflicts arise from the determination of just compensation. Under the CARL, the factors used to determine just compensation are capitalized net income from the land, comparable sales, and market or zonal value. The difficulty stems from the fact that market or zonal values vary because different government agencies use different standards. Moreover, the CARL mandated that lands acquired under previous laws had to be valued according to the standards set in those laws. For example, under the Agrarian Code of 1972, land valuation was based solely on agricultural production fixed at 2.5 times the annual yield valued at the 1972 government support price.⁹⁴

The method of valuation was improved under the CARPER, which specified the following factors: Cost of acquisition of the land, value of the standing crop, current value of similar properties, its nature, actual use and income, sworn valuations by the landowner, tax declarations, assessments made by government assessors, and 70% of the BIR zonal valuation. It also mandated the use of the same formula for all private agricultural lands for CARP coverage regardless of the governing law. These factors are checked by the DAR and Land Bank through a joint field investigation. There are times

⁹² *Id.*, citing Jose Noel Olano, *Land conflict resolution: case studies in the Philippines*, LAND REFORM, LAND SETTLEMENT, AND COOPERATIVES (2002), available at http://www.fao.org/3/Y3932T/y3932t07.htm#P9_1990.

⁹³ *Id.* at 12.

⁹⁴ Pres. Dec. No. 27 (1972).

when they find out only during such investigation that the subject land is no longer used for agricultural purposes.⁹⁵

Despite improvements in the formula for computing just compensation, farmers usually amortize a value significantly higher than what they can afford because the acquisition value of the land usually exceeds the value of the land they received. This is because the “strictures on ownership imposed by CARL mean that the land conveyed to the beneficiaries is effectively inferior to that bought at market price from the landowner.”⁹⁶

The fourth level is the titling process. Supposedly, land titling is not affected by the decision of the landowner to accept or reject Land Bank’s valuation of the property. In case of rejection or the absence of the landowner’s response on the value offered, Land Bank creates a trust account in the name of the landowner. The landowner may bring the matter to the appropriate courts for final determination of just compensation. The trust account remains until such time that the landowner accepts, or the case filed in court has been resolved. Thus, land transfer and titling can proceed upon the deposit of the compensation. The DAR takes immediate possession of the land and requests the appropriate Register of Deeds for the issuance of a Transfer Certificate of Title (“TCT”) in the name of the Republic of the Philippines and to the beneficiaries. Difficulty arises when landowners effectively prevent entry of the DAR and Land Bank officials into the property through their persistent objection, which may take the form of legal or violent means.⁹⁷

These translated to the very high cost of CLOA conversions to titles—a phenomenon that is not unique in the Philippines. A costly titling process is also a common problem in the land reform programs of Latin America.⁹⁸ In Mexico, Chile, Peru, Honduras, Nicaragua, and El Salvador, the first phase of land reform involves the *ejido* system or “collectives.” It is only in the second phase of land reform that lands are parceled, after decades of collective ownership and poverty.⁹⁹ In the Philippines, as of 2014, about 70%

⁹⁵ *Id.* at 12–13.

⁹⁶ Fabella, *supra* note 11, at 5–6.

⁹⁷ Ballesteros et al., *supra* note 12, at 13–14.

⁹⁸ Fabella, *supra* note 11, at 12.

⁹⁹ *Id.*, citing Alain De Janvry & Elizabeth Sadoulet, Land Reforms in Latin America: Ten Lessons towards a Contemporary Agenda (June 14, 2002) (Paper prepared for the World Bank’s Latin America Workshop, Pachuca, Mexico) available at https://are.berkeley.edu/~esadoulet/papers/Land_Reform_in_LA_10_lesson.pdf.

of CLOAs remained collective, leaving one million farmers and two million hectares of agrarian land unsettled in legal limbo.¹⁰⁰

These conflicts and issues are the reasons behind the “property rights frailty of CARP”, making “landownership via CARP” an “inferior type of ownership[.]”¹⁰¹ Raul Fabella explains that these problems relating to property rights suppresses efficiency¹⁰² and increases an ARB’s credit risk. Thus, even receiving title to the land reduces an ARB’s access to formal credit, condemning him “to destitution even while in possession of a potentially valuable asset”.¹⁰³

IV. RESOURCE INEQUALITIES THEORY

The CARL was drafted by legislators who are propertied elites.¹⁰⁴ It was laden with loopholes such as vague procedures for identifying agrarian reform beneficiaries and unclear guidelines on land use conversions, among others.¹⁰⁵ As a result, the law seemingly favored privileged parties, especially corporate and commercial agribusinesses, as well as elites with large land assets. The law also had provisions allowing landowners to hamper CARP implementation by challenging program inclusion, land valuation, and identification of beneficiaries, among others. These challenges led to a delay in the delivery of agrarian justice.¹⁰⁶

According to the resource inequality theory, those who have more resources are more likely to maintain an advantage within the legal system. Some evidence has been found to suggest that greater capability among parties

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 3.

¹⁰² *Id.* According to Ronald Coase, Nobel Memorial Prize winner in Economic Science,

initial distribution of an asset, such as land, will not deter efficiency if the asset is tradeable and transaction of asset trades is low. Such asset transfers can happen voluntarily if the transactions cost of exchange is low. It implies, in effect, that asset redistribution to favor equity need not sacrifice economic efficiency as long as assets can be subsequently traded in the market. Fabella, *supra* note 11, at 8.

¹⁰³ Fabella, *supra* note 11, at 10.

¹⁰⁴ Cruz & Manahan, *supra* note 63, at 933.

¹⁰⁵ Lourdes Saulo-Adriano, *A General Assessment of the Comprehensive Agrarian Reform Program*, PHIL. INST. FOR DEV. STUD. WORKING PAPER SERIES, No. 91-13, Aug. 1991, at 1, 11 available at <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidswp9113.pdf>.

¹⁰⁶ WALDEN BELLO ET AL., *THE ANTI-DEVELOPMENT STATE: THE POLITICAL ECONOMY OF PERMANENT CRISIS IN THE PHILIPPINES* (2004).

in terms of various resources is significantly related to success.¹⁰⁷ Parties that tend to enjoy an advantage in litigation outcomes include government organs, corporations, businesses and associations, unions, as well as elected representatives and public officials, because they have more money and litigation experience than ordinary individuals.¹⁰⁸

In 1994, Stacia Haynie's study "Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court" used empirical methods such as logistic regression and net advantage analysis.¹⁰⁹ It included Supreme Court cases over a 26-year period covering several areas, including damages and injury, contract disputes, creditor-debtor disputes, agricultural, commercial and residential landlord-tenant disputes, labor-management disputes, workers' compensation disputes, and contempt of court appeals. It was found that the resource inequality theory did not apply to the Philippine Supreme Court.

Contrary to findings from studies on courts in the United States and the United Kingdom, in the case of the Philippines, superior legal rights, as defined by the party capability model, do not increase the likelihood of winning. Instead, superior legal rights increase the likelihood of the petitioner losing. Moreover, a corporation does not have an advantage when facing an individual in court. Haynie argues that this result is due to the court's concern for legitimacy and stability in the Philippines. The study also noted how the Court's magistrates were guided by the social tenets of justice in making decisions.

Nonetheless, when differentiating cases according to the issues involved, the results of Haynie's study suggested that corporations have the greatest likelihood of success in landlord-tenant disputes. This leads one to inquire whether landlord-tenant cases have different political underpinnings compared to the other cases covered by the said study. For example, in a close examination of CARP cases decided by the Supreme Court under the 1987 Constitution, Dante Gatmaytan found that the Supreme Court was in fact impeding the agrarian reform program by acting as an agent of commerce and industry when it could have ruled in favor of the farmer.¹¹⁰

However, in an empirical analysis of labor cases decided by the Supreme Court from 1987 to 2016, Rogelio Alicor Panao and Bea Xandra de

¹⁰⁷ Stacia Haynie, *Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court*, 56 J. OF POL. 752, 753 (1994).

¹⁰⁸ Chung-li Wu, *Do the "Haves" Come Out Ahead? Resource Disparity on Public-Land Usurpation in Taiwan*, 100 SOC. SCI. Q. 1215, 1216 (2019).

¹⁰⁹ Haynie, *supra* note 107.

¹¹⁰ Gatmaytan, *supra* note 31, at 722.

Leon argued that distributive rules such as social justice policies create a selection process in the litigation and resolution of workplace claims.¹¹¹ The said study also used the logistic regression method to analyze the likelihood of winning in the Supreme Court.¹¹² For the cases covered in the said study, rules protective of labor tend to limit the suits brought to action to those where workers will succeed. This was because of how protective social legislation drives workers to pursue only cases that will be worth the high cost for them.¹¹³

Supreme Court Associate Justice Marvic Leonen also noted how a farmer or landowner will sue only when the projected costs of the process that it bears are outweighed by the benefits to be gained.¹¹⁴ When claims become more complex, or when lawyers become more and more necessary to litigate, or when the case is brought to higher and higher courts before the conflict is settled, costs also increase. He added that:

The benefits of the suit should not simply be understood as the amount of damages or the value of the title to the land granted after the procedure. There are real probabilities to every stage of a procedure. Hence even if the law grants ownership to an owner cultivator, if she is poor and unlettered and does not have access to information or a lawyer, without any intervention the probability that she will be able to gain title will be close to zero. Hence, the law guarantees nothing. She loses even before she starts.¹¹⁵

V. EMPIRICAL ANALYSIS OF CARP CASES DECIDED BY THE SUPREME COURT

To explore the Supreme Court's compliance with its mandate of faithfully implementing the social justice policy under the Constitution, 120 CARP cases decided since 2010 were analyzed. These cases have taken at least five years before reaching the Supreme Court, with the longest spanning 32 years. On average, a case would take 15 years, from the filing of the initiatory complaint before the adjudication board or the regional trial court, until reaching a final decision from the Supreme Court. The smallest parcel of land

¹¹¹ Rogelio Alicor Panao & Bea Xandra de Leon, *Balancing the interests of labor and capital: An empirical analysis of Philippine Supreme Court labor cases from 1987 to 2016*, 39 PHIL. POL. SCI. J. 1 (2018).

¹¹² *Id.* at 12.

¹¹³ *Id.* at 19.

¹¹⁴ Leonen, *supra* note 60.

¹¹⁵ *Id.* at 3.

that became subject of a litigation in the sample of cases was 240 square meters, while the largest landholding in the sample of cases was almost 5,000 hectares—the subject land in the case of *Hacienda Luisita, Inc.*. The average size of disputed land under the CARP brought to the Supreme Court was 235 hectares. Most of those lands were located in Southern Tagalog (30 cases), Central Luzon (29 cases), Davao region (16 cases), and Bicol region (12 cases), as shown in the table below.

TABLE 1. Number of Cases from Different Regions

Region	Number of Cases
I	2
II	2
CAR	1
III	27
IV-A	30
IV-B	5
V	12
VI	3
VII	4
VIII	1
IX	5
X	7
XI	16
XIII	5
TOTAL	120

Out of the 120 cases entertained by the Supreme Court during the period, 88 were decided on substantive grounds, while 32 were decided on procedural grounds. Among those decided on procedural grounds, 30 were based on jurisdictional issues. When classified according to the litigants involved, 17 of the procedural cases were brought before the Supreme Court by landowners, 10 by beneficiaries, and 5 by government agencies.

Among those decided on substantive grounds, 53 were centered on the determination of just compensation. There were 20 cases in which the landowner questioned the inclusion of their property under the CARP coverage. Fourteen of these were brought to the Supreme Court by landowners who were contesting lower court decisions finding that their properties were covered by the CARP. This meant that, at the first instance,

they filed a protest upon issuance by the DAR of an NOC or a petition for exclusion or exemption from CARP coverage as provided under the CARL or CARPER. Interestingly, 11 out of the 20 cases on CARP coverage involved lands located in Southern Tagalog. Five were from the province of Laguna, three from Batangas, two from Cavite, and one from Rizal.

A smaller number of cases dealt with prohibited transfers, identification of beneficiaries, retention rights of landowners, and other issues. As mentioned in the earlier section, there are four levels in the conflicts that take place between these parties: The first level is in the identification of land for coverage, the second is in the identification of beneficiaries, the third is in land survey and valuation, and the last is in the titling process.¹¹⁶ Based on the survey of cases covered in this study, the cases that reached the Supreme Court were those involving the first level and third level of conflicts between the parties.

TABLE 2. Cases According to Issues Involved

ISSUE	Number of Cases
SUBSTANTIVE GROUND	88
Just compensation	53
CARP coverage	20
Prohibited Transfer	6
Identification of Beneficiary	3
Retention rights	3
Others	3
PROCEDURAL GROUND	32
Jurisdiction	30
Mode of Appeal	2

Out of the 120 CARP cases that reached the Supreme Court, only 15 were filed by ARBs. This is in accordance with the theory put forth by Justice Leonen¹¹⁷ that as cases reach higher courts, it becomes less likely that the farmer-beneficiaries will be the ones pursuing them, considering the higher costs of litigation. Out of these 15 cases, ARBs won in 11 cases.¹¹⁸

¹¹⁶ Ballesteros et al., *supra* note 12, at 10–14.

¹¹⁷ Leonen, *supra* note 60, at 3.

¹¹⁸ Most of these cases dealt with jurisdiction and exclusion from CARP coverage.

Most of the CARP cases before the Supreme Court were filed by landowners, comprising 57 cases, closely followed by government agencies, which brought 48. This is also in line with the resource inequality theory: That litigants with greater resources tend to be the ones filing cases before higher courts. Out of the 48 cases filed by government agencies, 34 were brought to the Supreme Court by Land Bank, pursuant to questions regarding the determination of just compensation.

TABLE 3. Cases According to Litigant

Litigant	No. of Decisions Favorable to Petitioner	No. of Cases where litigant is Petitioner	No. of Decisions Favorable to Respondent	No. of Cases where litigant is Respondent
Landowner	30	57	24	64
Beneficiary	11	15	10	36
Government Agency	29	48	16	20
TOTAL	70	120	50	120

In Haynie's 1994 study, the success between litigants and issues was analyzed using the net advantage formula, which was calculated by "subtracting the success rate of opponents when the litigant is respondent from the litigant's success rate as petitioner."¹¹⁹ Applying the same method in this study, government agencies appear to have the greatest likelihood of success. Agrarian reform beneficiaries also seem to have a net advantage, albeit quite minimal at only 1%. In the same way, government agencies and ARBs seem to have higher averaged success rates as petitioners or respondents compared to landowners.

TABLE 4. Net Advantage of Parties

Type of Party	Success Rate as Petitioner	When Respondent, Opponent's Success Rate	Net Advantage	Averaged Success Rate as Petitioner and Respondent
Landowner	53%	63%	-10%	45%
Beneficiary	73%	72%	1%	51%
Government Agency	60%	20%	40%	70%

The likelihood of success may also be examined depending on the opponent. For example, in cases where the landowner is the petitioner and the beneficiary is the respondent, the landowner won 56% of the time, or in

¹¹⁹ Haynie, *supra* note 107, at 762.

20 out of 36 cases. On the other hand, in cases where the landowner is the petitioner and the respondent is a government agency, the landowner won 47% of the time, or in 9 out of 19 cases.

Out of the 15 cases filed by ARBs, 14 were filed against landowners; among those, 10 were won by the ARBs, leading to a 71% success rate. On the other hand, the 48 petitions before the Supreme Court filed by government agencies were all against landowners. In 29 out of these 48 cases, the government agency won, which translated to a 60% success rate.

TABLE 5. Petitioner Success Rates Against Different Respondents

Petitioner	Respondent		
	Landowner	Beneficiary	Government Agency
Landowner	50% (1 out of 2)	56% (20 out of 36)	47% (9 out of 19)
Beneficiary	71% (10 out of 14)	-	100% (1 out of 1)
Government Agency	60% (29 out of 48)	-	-

Net advantage may also be examined by different combinations of litigants. For example, in cases between landowners and ARBs, the latter have a net advantage of 16%. On the contrary, in cases between government agencies and landowners, government agencies have a net advantage of 13%.

TABLE 6. Net Advantage for Different Combinations of Parties

Combination of Parties	Net Advantage
Landowner and Beneficiary	Beneficiary by 16%
Government Agency and Landowner	Government Agency by 13%

Looking at the CARP issues litigated before the Supreme Court, it seems that landowners have the greatest net advantage when the issue involved is the inclusion or exclusion of the subject property under CARP coverage. For CARP coverage, landowners' net advantage is 39%, compared to -17% for ARBs. On the issue of just compensation, it seems that government agencies are more likely to win with a 5% net advantage, compared to -9% for landowners.

Meanwhile, when a case is brought up and decided by the Supreme Court on procedural grounds, government agencies and ARBs are more likely to win, with net advantages of 35% and 25% respectively, compared to -24% for landowners.

TABLE 7. Net Advantage for Party by Issue

Type of Party	Issue	Success Rate as Petitioner	When Respondent, Opponents' Success Rate	Net Advantage	Averaged Success Rate as Petitioner & Respondent
Land-owner	Procedural issue	47%	71%	-24%	38%
	Just compensation	50%	59%	-9%	46%
	CARP Coverage	79%	40%	39%	69%
	Prohibited transfer	50%	100%	-50%	25%
	Identification of beneficiary	0%	-	-	50%
	Retention rights	33%	-	-	67%
	Other issues	50%	100%	-50%	25%
Beneficiary	Procedural issue	80%	55%	25%	63%
	Just compensation	-	0%	-	100%
	CARP Coverage	60%	77%	-17%	42%
	Prohibited transfer	-	50%	-	50%
	Identification of beneficiary	-	0%	-	100%
	Retention rights	-	33%	-	67%
	Other issues	-	100%	-	0%
Government Agency	Procedural issue	60%	25%	35%	68%
	Just compensation	59%	54%	5%	53%
	CARP Coverage	0%	100%	-100%	0%
	Prohibited transfer	100%	-	-	100%
	Other issues	100%	0%	100%	100%

Logistic regression analysis was also employed to see if there were significant factors that determined the likelihood of success for the different types of litigants and the nature of the cases they submitted to court.¹²⁰ This

¹²⁰ Pano & de Leon, *supra* note 111, at 12.

method is used when the dependent variable is dichotomous.¹²¹ In this study, the dependent variable denotes whether or not the petitioner won the case brought before the Supreme Court. For the type of litigants, an interaction variable of the petitioner and respondent in a certain case was used. For the nature of the cases brought before the Supreme Court, an interaction variable of the type of litigants and the issues before the Supreme Court was used. Other variables such as the land area and region where the subject property was situated were also included in the model. The results of the regression are shown in Table 8.

TABLE 8. Summary of Logistic Regression Estimates

	<i>Coefficient</i> ¹²²	<i>p-value</i> ¹²³
Constant	5.67384	0.0811*
Land area in square meters	-1.28663e-07	0.0494**
REGION WHERE THE SUBJECT PROPERTY IS SITUATED		
Luzon	0.582438	0.5985
Central Luzon	-1.33748	0.1210
Southern Tagalog	-0.911203	0.2832
Bicol	-0.399673	0.6803
Visayas	-1.09100	0.2927
Mindanao	-0.190812	0.8352
NATURE OF CASE OR ISSUE BEFORE THE SUPREME COURT		
Procedural issue	-3.66158	0.2320
Just compensation	-19.4652	0.9989
CARP Coverage	-4.42305	0.1179
LITIGANTS BEFORE THE SUPREME COURT (PETITIONER V. RESPONDENT)		
Government v. Landowner	-2.15962	0.3778
Landowner v. Beneficiary	-5.40915	0.0776*
Landowner v. Government	0.873533	0.7112

¹²¹ Haynie, *supra* note 107, at 753.

¹²² These are the values for the logistic regression equation for predicting the dependent variable from the independent variable. They are in log-odds units. These estimates tell you about the relationship between the independent variables and the dependent variable, where the dependent variable is on the logit scale.

¹²³ Coefficients having p-values less than alpha are statistically significant.

INTERACTION BETWEEN THE LITIGANTS AND ISSUE BEFORE THE SUPREME COURT		
Procedural issue: Government v. Landowner	1.59447	0.5701
Procedural issue: Landowner v. Beneficiary	4.17863	0.1893
Procedural issue: Landowner v. Government	-3.09932	0.2530
Just compensation: Government v. Landowner	16.9912	0.9991
Just compensation: Landowner v. Government	14.3841	0.9992
CARP Coverage: Landowner v. Beneficiary	6.26352	0.0362**
* $p < .10$, two-tailed; ** $p < .05$, two-tailed		
McFadden R-squared = 0.143688		
Number of cases 'correctly predicted' = 82 (68.3%) ¹²⁴		
Likelihood ratio test: Chi-square(19) = 23.4221 [0.2193] ¹²⁵		

These results show that when presented with a case in which the landowner is the petitioner and the ARB is the respondent, the Supreme Court is significantly less likely to grant the petition. This mirrors the finding that between landowners and ARBs, the latter have a net advantage, as explained in the earlier section.

Looking at the issues litigated before the Supreme Court, the chances for a landowner to win against a beneficiary is significantly increased when the former raises an argument about CARP Coverage. This also mirrors the earlier analysis of net advantages, wherein landowners have a significantly higher net advantage against ARBs when the issue before the Supreme Court is the inclusion or exclusion of the subject property under CARP coverage.

This explains the penchant of landowners to dodge the government's agrarian reform program and to derail the process of land acquisition and distribution by filing petitions for exemption from CARP coverage.¹²⁶ This also reflects how CARL gave landowners a leeway by providing several

¹²⁴ The "Percent Correct Predictions" statistic assumes that if the estimated p is greater than or equal to 0.5 then the event is expected to occur and not occur otherwise. The bigger the % Correct Predictions, the better the model.

¹²⁵ This is the probability of obtaining the chi-square statistic given that the null hypothesis is true. In other words, this is the probability of obtaining this chi-square statistic if there is in fact no effect of the independent variables, taken together, on the dependent variable. This is, of course, the p -value, which is compared to a critical value, perhaps .05 or .01 to determine if the overall model is statistically significant. In this case, the model is not statistically significant because the p -value is 0.2193.

¹²⁶ Chandran, *supra* note 14.

exemptions from CARP coverage.¹²⁷ Furthermore, this affirms the observation that the emphasis of the DAR's issuances on legal technicalities are "detrimental to the welfare of the farmers since they incentivize recalcitrant landowners to circumvent and even hold hostage the land distribution process by the mere filing of 'Protests against CARP Coverage and/or Petitions for Exemption/Exclusion.'"¹²⁸ Note that the landowner may file an exemption case within 60 days after the issuance of an NOC¹²⁹ and the land implementation process may be suspended pending the resolution of the protest or exemption or exclusion of cases by the Office of the President.¹³⁰ The results of the logistic regression suggest that landowners who choose this strategy and bring the case all the way to the Supreme Court may actually avoid losing their properties to the CARP altogether.

The size of the property involved also seems to significantly affect the likelihood of success of a litigant before the Supreme Court. The negative coefficient means that the bigger the land area of the subject property, the lower the likelihood that the Supreme Court will rule in favor of the petitioner.

The other variables did not yield a significant relationship with the dependent variable. Moreover, in running the logistic regression, some variables were dropped from the equation. For instance, some combinations of litigants, particularly those involving ARBs, were not included by the software. This is due to the very few cases featuring such combinations. It is also important to note that the model, in its entirety, is not statistically significant. This means that the independent variables, taken together, do not significantly affect the dependent variable, and implies that there may be other variables affecting the decision of the Supreme Court that were not included in this study. This could also mean that the sample size, or the number of cases included in this study, may be insufficient to make more accurate predictions.

Logistic regression was also employed to show the factors that increase the likelihood of an ARB winning a CARP case. For this second model, only the cases in which the ARB was a party-litigant, whether as a petitioner or respondent, were included, leaving a sample size of only 51 cases. The dependent variable was whether or not the ARB won the case brought before the Supreme Court. An independent variable for whether the ARB was the petitioner or respondent in the case was also added. For the nature of the

¹²⁷ Ballesteros et al., *supra* note 12, at 6–7.

¹²⁸ Cruz & Manahan, *supra* note 63, at 973–74.

¹²⁹ DAR Adm. Order No. 07 (2009), § 28.

¹³⁰ § 29.

cases brought before the Supreme Court, interaction variables denoting the type of litigants and the issues before the Supreme Court were also included. The other independent variables were the location of the land and the land area in square meters. The results of the regression are shown in Table 9.

TABLE 9. Summary of Logistic Regression Estimates for the Second Model

	<i>Coefficient</i>	<i>p-value</i>
Constant	-1.00021	1.0000
ARB as petitioner	1.10203	0.3844
Land area in square meters	-1.23026e-08	0.9689
REGION WHERE THE SUBJECT PROPERTY IS SITUATED		
Central Luzon	22.0980	0.9988
Southern Tagalog	21.0301	0.9989
Visayas	21.5747	0.9989
Mindanao	21.7118	0.9989
NATURE OF CASE OR ISSUE BEFORE THE SUPREME COURT		
Procedural issue	-19.5097	0.9998
CARP Coverage	-21.4332	0.9998
Others	-20.1465	0.9998
INTERACTION BETWEEN THE LITIGANTS AND ISSUE BEFORE THE SUPREME COURT		
Procedural issue: Landowner v. Beneficiary	-2.45018	0.2045
McFadden R-squared = 0.362755		
Number of cases 'correctly predicted' = 43 (84.3%)		
Likelihood ratio test: Chi- square(11) = 25.5831 [0.0075]		

None of the variables turned out to be significant, possibly due to the small sample size. However, the McFadden R-squared and the p-value of the likelihood ratio test turned out better than the earlier model. The number of cases correctly predicted is 43 out of 51, or 84%.

The dependent and independent variables were presented in a cross-tabulation matrix and tested using the Chi-square statistic to see whether there were any significant relationships among them. Doing so shows the correlation between the dependent variable and each of the independent

variables, albeit without being able to control other independent variables. The results of the correlation are shown in Table 10.

TABLE 10. Summary of Correlation Estimates

	<i>Pearson chi-square</i>	<i>p-value</i>
ARB as petitioner	5.88835	0.0152414**
REGION WHERE THE SUBJECT PROPERTY IS SITUATED		
Central Luzon	0.908067	0.340628
Southern Tagalog	1.15132	0.283272
Visayas	0.0150709	0.902294
Mindanao	0.372645	0.541566
Davao	4.86634	0.0273855**
NATURE OF CASE OR ISSUE BEFORE THE SUPREME COURT		
Procedural issue	0.00449735	0.946532
CARP Coverage	2.10354	0.146959
Others	1.54706	0.213569
LITIGANTS BEFORE THE SUPREME COURT (PETITIONER V. RESPONDENT)		
Beneficiary v. Government	1.1475	0.284073
Beneficiary v. Landowner	1.1475	0.284073
Landowner v. Beneficiary	5.88835	0.0152414**
INTERACTION BETWEEN THE LITIGANTS AND ISSUE BEFORE THE SUPREME COURT		
Procedural issue: Landowner v. Beneficiary	4.69432	0.0302625**
CARP Coverage: Landowner v. Beneficiary	4.02775	0.0447576**
CARP Coverage: Beneficiary v. Government	1.1475	0.284073
CARP Coverage: Beneficiary v. Landowner	1.1475	0.284073
Others: Landowner v. Beneficiary	1.54706	0.213569
* $p < .10$, two-tailed; ** $p < .05$, two-tailed		

The dependent variables that are statistically significant, i.e. those which have a p-value less than 0.05, for the Pearson chi-square test are: Whether the farmer-beneficiary is petitioner or respondent, whether the land is situated in Davao, whether the petitioner is the landowner and the farmer-

beneficiary is the respondent, whether the case is between landowner and farmer and the issue is procedural, and whether the case is between landowner and farmer and the issue is CARP coverage.

Again, as theorized by Justice Leonen,¹³¹ as the cases reach higher courts, it is less likely that the farmer-beneficiaries will be the ones to pursue them, considering the higher costs of litigation. Only 15 of the cases included in this study were brought to the Supreme Court by ARBs. Out of these 15 cases, ARBs won in 11 cases.¹³²

The other significant variables also support the results of the earlier methods in predicting that a case where the landowner is the petitioner and the ARB is the respondent significantly lowers the likelihood of the Supreme Court granting the petition. It mirrors the outcome that in cases between landowners and ARBs, the latter have a net advantage. The issues that are significantly correlated to the likelihood of the ARB's success in the Supreme Court are CARP coverage and procedural matters—the same issues that the landowners usually utilize to dodge the effects of the CARP on their landholdings or to further delay the process.

VI. CONCLUSION AND RECOMMENDATIONS

The CARL and CARPER were notable legislations for having expanded and extended the agrarian reform program of the country. Unfortunately, both laws were considered weak in terms of embodying the policy of social justice in the Constitution. They were seen to favor landowners, primarily due to an expansive list of exemptions, controversial methods for determining landowner compensation, and other loopholes. Landowners have employed the strategy of filing cases against farmers and the DAR, stalling land acquisition and distribution every step of the way. Thus, both laws were believed to have failed to clear the way for the true freedom of the farmer.

In terms of the levels of conflict between the parties, overlapping jurisdictions of different agencies and tribunals also cause conflict. These are the sources of issues raised by landowners in filing cases before the courts.

The Supreme Court is the last bulwark to which the Filipino people may repair to obtain relief for their grievances or protection of their rights. By

¹³¹ Leonen, *supra* note 60, at 3.

¹³² Most of these cases dealt with jurisdiction and exclusion from CARP coverage.

scrutinizing the nature of the cases that go all the way up to the Supreme Court, and the parties involved therein, a glimpse into the program's design and implementation flaws may be seen. Doing so is also a way of checking whether the highest court of the land has been faithful to its duty of protecting the economic and property rights of Filipino farmers.

Under the resource inequalities theory or party capability model, those with superior legal rights as determined by their access to resources have the greater likelihood of winning before judicial tribunals. However, previous studies applying this theory show that it does not hold true in the Philippines. Justices of Philippine courts have been found more likely to rule in favor of litigants who have had less in life. It may be argued that said magistrates were guided by the constitutional tenets of social justice in making their decisions. Alternatively, it may also be surmised that the existing legal framework tended to restrict actionable suits to those in which litigants with less resources would be more likely to succeed.

This study covered 120 CARP cases decided by the Supreme Court since 2010. In line with the resource inequality theory, most of these cases were brought to the Supreme Court by landowners. Only a handful were initiated by farmer-beneficiaries. Many of these cases were brought on procedural grounds, reflecting the dilatory tactics employed by landowners. Among those that were decided on substantive grounds, most were about just compensation and CARP coverage.

In general, government agencies and ARBs seem to have higher average success rates as petitioner or respondent compared to landowners. In cases between landowners and ARBs, the latter have a net advantage. Looking at the particular CARP issues litigated before the Supreme Court, it seems that landowners have the greatest net advantage when the issue involves the inclusion or exclusion of the subject property under CARP coverage. This explains why many landowners have taken advantage of the provisions of the CARL, CARPER, and DAR issuances pertaining to exemptions from CARP coverage, and cancellations of NOCs. It is the Achilles' heel of the law, a rich source of arguments, and a smart strategy for circumventing the program.

The study is limited in that it only covered Supreme Court decisions on CARP cases from 2010 to 2018. While examining court decisions may be a good tool to assess agrarian justice delivery in the country, the database may have to be expanded by lengthening the period covered. More insights may also be gathered if access to cases decided in other tribunals, such as the Court of Appeals, Special Agrarian Courts, and even the DAR Adjudication Board,

were included. Other studies on agrarian reform programs, both local and international, also suggest that the crop grown in the subject land might also affect results. Moreover, a further look at the nature of the landowners might also be of interest. The analysis might be enriched if the lands owned by political families or by large corporations were identified.

This path of analyzing the implementation of agrarian reform through cases brought before tribunals already excludes those that are tackled in extrajudicial or extralegal fora. The sad truth is that many factors and experiences on the ground will not be captured by the data gathered from courts or administrative agencies.

Nonetheless, this exercise is fruitful in exposing the weakness of the laws, and in affirming the role of the Supreme Court in making sure that the CARL and CARPER remain as the “bastion of social justice of poor landless farmers, the mechanism designed to redistribute to the underprivileged the natural right to toil the earth, and to liberate them from oppression.”¹³³

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¹³³ DAR v. Woodland Agro-Development, Inc., G.R. No. 188174, 760 SCRA 503, 510, June 29, 2015, *quoting* Sec’y of Agrarian Reform v. Tropical Homes, Inc., G.R. No. 136827, 362 SCRA 115, 115 July 31, 2001.