ADMINISTRATIVE DUE PROCESS IN THE LAND REFORM CODE

ANGELITO C. IMPERIO *

I. INTRODUCTION

Republic Act No. 3844, otherwise known as the Agricultural Land Reform Code, was signed into law on August 8, 1963. It tolled the death knell for a well-entrenched socio-economic institution that has plagued the country for longer than four and a half centuries. Agricultural share tenancy, or the system of landowner-tenant relationship whereby the tenant tills the landowner's land and the produce thereof divided between them, was declared by legislative fiat to be contrary to public policy and hereafter to be abolished.[1] Henceforth, the tenant will cease to be a share tenant; during a period of transition he will be a leaseholder, unless a different land tenure relationship is agreed upon by him and his landlord; then he will own the land he tills.[2]

Through this bold and forthright legislation, the State declared the "emancipation" of the tenant from centuries of share-cropping and debt-peonage that bore down on his shoulders since pre-Hispanic times. President Macapagal, in his statement on the occasion of its signing, said:

> "By this we proclaim the independence of the shackled Filipino farmer, declare our faith in his ability to fulfill the responsibility that comes with his newly won freedom and declare our determination to assist him effectively in rising to the proud status of an owner of his land and the equal in human dignity of any other citizen of the land." [3]

To carry this about, the Agricultural Land Reform Code provides the executive branch with manifold resources and a complex

---

* Chairman, Student Editorial Board, PHILIPPINE LAW JOURNAL, 1963-64.

[1] Section 4. *Abolition of Agricultural Share Tenancy.*—Agricultural share tenancy, as herein defined, is hereby declared to be contrary to public policy and shall be abolished. . . .

Section 166 (25) "Share tenancy" as used in this Code means the relationship which exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant.

[2] Cf. Speech delivered by President Macapagal on the occasion of the signing of the Code at Manila, on August 8, 1963, Philippine Labor, Vol. II No. 8.

[3] *Ibid.*

administrative machinery to assist the tenant in his new relationship with the landholder, including provisions for the expropriation of the land he tills, so that he may eventually acquire it in full ownership. A number of administrative agencies will be created to facilitate the transition of the tenant into lessee, and eventually into landowner, at the same time insuring that the transformation will result in increased agricultural productivity and augmented income for the farmer.

It is expected that a revolutionary measure like this will have to contend with serious objections, even resistance, from some sectors in the country. In fact, even while the measure was being deliberated in the halls of Congress, the question of its constitutionality was a major bone of contention, and the discussions became so embittered and enmeshed in partisan political wranglings that it almost threatened internecine strife in the legislative house. Issues of impairment of the landowner's property rights were lengthily discussed, and the due process clause of the Constitution was frequently invoked as a rallying point by opponents of the bill. Fortunately, however, the proponents of the bill were able to weather the unremitting salvoes of the constitutionalists, but only after giving in to a number of amendments which blunted some of the radical points in the original version of the bill. But even as it now stands, the Agricultural Land Reform Code still preserves a radical quality that may yet wither before the constitutional tests of the Supreme Court.

This paper does not purport to dissect the broad constitutional aspects of the Agricultural Land Reform Code as a social legislation justified by the State in the exercise of its police power. We leave it to the constitutionalists to raise the issue before the judicial forum at an appropriate time. This paper is mainly intended to consider one constitutional aspect that may be raised by the creation of different administrative agencies under the Code, in so far as it affects or may be affected by the due process clause of the Constitution. If we have to specify a subject heading, this may well fall within the ambit of administrative law.

II. LIMITATION OF DUE PROCESS

The constitutional limitation which concerns us here is the due process clause contained in the Bill of Rights which provides: "No person shall be deprived of life, liberty, or property without due process of law." [4] Historically, the due process clause as it appears

[4] PHIL. CONST. Art. III, Sec. 1 (1).

in the Fifth and Fourteenth Amendments of the United States Constitution from which this provision was substantially copied, was primarily regarded as establishing and fortifying a basic procedural requirement whenever an individual was to be deprived of life, liberty, or property. The meaning of the clause was, however, extended by the courts to protect, not merely the right to have a fair procedure before an adverse decision may be entered, but even substantive rights of the individual.[5] Thus, constitutional jurisprudence has come to recognize two aspects of due process—substantive and procedural. In its most comprehensive sense, it is understood to include those "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions."[6]

The requirement of substantive due process, as the name implies, refers more to the contents of the law rather than to the mode by which it is made and applied. In relation to administrative law, its first and most obvious consequence is that the administrative agency must act within its jurisdiction; that is to say, it must act in accordance with a lawful grant of authority. Under substantive due process, almost any action by an administrative officer or body which affects the legal right of an individual may be brought before a court for the purpose of testing the legal authority of the administrative agent. One of the indications of the wide range of the concept as it is now understood is the fact that it has been equated with such terms as "law of the land,"[7] "government under law," and the "rule of law."[8]

Many writers on the subject have tried to debunk this expansive treatment of the due process clause as it relates to administrative actions,[9] but the notion has quite persisted.[10] Thus, it has been said that substantive due process is a subject of constitutional law, but hardly of general administrative law, since it is not possible to restate a general norm that would be determinative of the constitutional limits of the contents of every administrative law, rule, or decision.[11] At any rate, we shall leave the disputants to their legal

---

[5] Cf. Corwin, The Constitution and What It Means Today 168-71.

[6] Herbert v. Louisiana, 272 U.S. 312, 47 S. Ct. 103.

[7] The Constitution, Analysis and Interpretation, Senate Document 170, 82nd Congress, 2nd Session, 845 (1952).

[8] Miller, An Affirmative Thrust to Due Process?, 30 G. Wash. L. Rev. 399, 401. Cf. Meador, Some Thoughts on Federal Courts and Army Regulations, 11 Mil. L. Rev., (DA Pam 27-100-11, 1 Jan. 61) 187, 191 and 195 (1961).

[9] See Pahlsen, The Persistence of Substantive Due Process in the States, 34 Minn. L. Rev. 91 (1950). For a study of border problems where administrative problems might be regarded as involving substantial due process questions, see Carrow, The Background of Administrative Law 116-117.

[10] See Parker, Administrative Law 31-33 (Bobs & Merrill Co. ed 1952).

[11] *Ibid.*

niceties and proceed to discuss the due process clause as it limits administrative actions from the procedural viewpoint, since a discussion of the substantive aspects of due process in the Agricultural Land Reform Code would lead us too far afield, involving as it does too broad constitutional questions that must be left to the treatment of constitutional law. Suffice it to say that the main bulk of administrative law refers to procedure, and it is this aspect of due process that we are principally interested in.

Administrative due process as herein considered is the constitutional concept of procedural due process of law applied to administrative actions. It is the due process required in every quasi-legislative or quasi-judicial proceeding which might result in the deprivation of individual life, liberty, or property. It is not limited to the judicial branch, for it extends to every branch of the government: legislative, judicial, executive, military and administrative,[12] for the Constitution contemplates that life, liberty, and property of all persons shall be protected by the requirement of due process. These requirements have been considered to serve two general purposes: first, to insure integrity of judicial and administrative processes leading to a decision of a case or the determination of an issue, and, second, to protect human dignity in terms of personal and property rights.[13] It is democracy's method of insuring a legal, fair, just and reasonable result. It works to insure that individual rights are protected, but equally preserves the rights of all the people against the claims of the individual by providing procedures whereby the relative rights and duties can be fairly decided.[14]

Whatever the administrative action may be—whether making a rule or regulation, deciding a controversy, or issuing an order—it must employ such procedure as is fundamentally fair and just. What this fundamental conception of justice demands, in the way of procedure, varies greatly according to the circumstances. However, courts in the United States have delineated some guidelines which our own Supreme Court has resorted to time and again.

---

[12] " 'Due process of law' is not confined to judicial proceedings, but extends to every case which may deprive a citizen of life, liberty or property, whether the proceeding be judicial, administrative or executive in its nature." Stuart v. Palmer, 74 N.Y. 183, 190 (1878).

"The constitutional guaranty of due process of law, the object of which is to preserve personal anl property rights against the arbitrary action of public officials, applies to administrative as well as judicial proceedings. . ." 42 Am. Jur., Public Administrative Law #116 (1942).

[13] Cf. Kadish, Methodology and Criteria in Due Process Adjudication—A Survey and Criticism, 66 Yale L. J. 319, 346 (1947).

[14] Powers, Administrative Due Process in Military Tribunals, 20 Wash. & Lee L. Rev. 1, 33 (1963).

Daniel Webster in his famous argument before the United States Supreme Court in the Dartmouth College case defined due process as "the general law; a law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial." [15] According to another judicial landmark, " 'due process of law' generally implies and includes *actor, reus, judex,* regular allegations, opportunity to answer, and a trial according to some settled course in judicial proceedings . . . " [16] Still more concrete, and of greater relevance to administrative law, is Justice Brandeis' statement that the protection that the due process clause assures is:

> "that the trier of facts shall be an impartial tribunal; that no finding shall be made except upon due notice and opportunity to be heard; that the procedure at the hearing shall be consistent with the essentials of a fair trial; and that it shall be conducted in such a way that there will be opportunity for a court to determine whether the applicable rules of law and procedure were observed."[17]

With these as our guideposts, we shall now proceed to consider the limitations of due process on the administrative agencies to be established under the Agricultural Land Reform Code.

III. ADMINISTRATIVE AGENCIES UNDER THE CODE

The Agricultural Land Reform Code provides for the creation of seven administrative agencies, namely:

(1) The Land Authority, to be established for the purpose of carrying out the policy of establishing owner-cultivatorship and the economic family-size farm as the basis of Philippine agriculture.[18] Among the more important powers of the Land Authority are: initiation of expropriation proceedings for the acquisition of private agricultural lands for the purpose of subdivision into economic family-size farm units to tenants, occupants and qualified farmers [19]; administration and disposition of agricultural lands of the public domain for settlement and sale [20]; surveying and subdividing lands under its administration to be set aside for economic family-size farms, large-scale farm operations, town sites, roads, parks, government centers and other civic improvements [21]; expropriation of home

---

[15] Trustees of Dartmouth College v. Woodward, 4 Wheat. 518, 581 (1819).
[16] Murray v. Hoboken Land and Improvement Co., 18 How. 272, 280 (1855).
[17] St. Joseph Stock Yards Co. v. U.S., 298 U.S. 38, 73 (1935) (concurring opinion). And see In re Oliver, 333 U.S. 257, 273 (1948); Joint Anti-Fascist Refugee Committee v. MacGrath, 341 U.S. 121 (1951).
[18] Section 49.
[19] Section 51 (1).
[20] Section 51 (3).
[21] Section 51 (9).

lots occupied by agricultural lessees outside their landholdings for resale at cost to said lessees.[22]

(2) The Land Bank, for financing the acquisition by the Government of landed estates for division and resale to small landholders, as well as the purchase of the landholding by the agricultural lessee from the landowner.[23]

(3) The Agricultural Credit Administration, for extending credit to the small farmers and farmers' cooperatives. This agency takes over the functions of the Agricultural Credit and Cooperative Financing Administration (ACCFA) created under Republic Act No. 821, as amended by Republic Act No. 1285.[24]

(4) The Agricultural Productivity Commission, for providing marketing, management and other technical services to agriculture.[25]

(5) The National Land Reform Council which is a unified administration for formulating and implementing projects of land reform.[26] The Council is assigned to the task of constructing the general program of land reform contemplated by the Code,[27] to establish guidelines, plans and policies for its member-agencies,[28] to formulate rules and regulations to carry out the provisions of the Code with respect to the selection of agricultural land to be acquired and distributed, the determination of sizes of family farms and the selection of beneficiaries to family farms available for distribution,[29] and to proclaim the effectivity of the provisions of the Code in any region or locality.[30]

(6) Courts of Agrarian Relations seating in fifteen regional districts classified under the Code.[31] The Court of Agrarian Relations shall have original and exclusive jurisdiction over: all cases or actions involving matters, controversies, disputes, or money claims arising from agrarian relations, including cases pending in the Court of Agrarian Relations established under Republic Act No. 1257; all cases or actions involving violations of Chapter I and II of the Code and Republic Act No. 809; and expropriations to be instituted by the Land Authority, including expropriation proceedings

---

[22] Section 51 (14).
[23] Section 74.
[24] Section 101.
[25] Section 119.
[26] Section 126.
[27] Section 128 (1).
[28] Section 128 (2).
[29] Section 128 (3).
[30] Section 128 (5).
[31] Section 141, 142.

instituted by the Land Tenure Administration pending in the Courts of First Instance at the time of the effectivity of the Code.[32]

(7) Office of Agrarian Counsel, to give free legal assistance to agricultural lessess, farm workers and owner-cultivators who cannot engage the services of competent private counsel in cases before the Court of Agrarian Relations.[33]

IV. ADMINISTRATIVE DETERMINATION AND DUE PROCESS UNDER THE LAND REFORM CODE

Not every kind of agency determination in the Agricultural Land Reform Code will involve any problem of due process. This is apparent from a cursory reading of the functions of the different administrative bodies provided for by the Code. Most of the functions are ministerial in nature; they do not involve the exercise of powers in a quasi-legislative or quasi-judicial capacity which may interfere with the conduct of the individual such as to warrant a demand of due process. For instance, the activities of the Land Bank, the Agricultural Credit Administration, the Agricultural Credit Commission, and the Office of Agrarian Counsel hardly involve functions other than those which are primarily clerical and those which pertain to internal administration. It would not be amiss if we categorize the functions of these administrative bodies as matters of public administration, confined as they are to internal organization and operation of administrative or executive offices of the government.[34] The distinguishing feature of an "administrative" agency, as this term is understood in administrative law, is the power to determine, either by rule or decision, private rights and obligations.[35] The agencies mentioned do not extend out their functions into the realm of private rights and duties, except indirectly. They do not exercise any rule-making or adjudicative powers except in their internal operations. However, the same cannot be said of the Land Authority, the National Land Reform Council, and the Court of Agrarian Relations. These agencies are vested with regulatory or judicial powers directly involving private rights. Their determinations, whether in the formulation of a rule or in the meting out of a decision, necessarily encroaches on the domain of individual rights which the Constitution protects from deprivation without due process of law.

---

[32] Section 154.

[33] Sections 160, 163.

[34] V. G. Sinco, Philippine Law of Public Administration and Civil Service 6 (1955).

[35] 42 Am. Jur. Public Administrative Law, § 3. See a discussion on this in Carrow. *op. cit. supra*, note 9.

The question of administrative due process, therefore, crops up under the Agricultural Land Reform Code in the following administrative actions:

(1) Institution of expropriation proceedings by the Land Authority with the Court of Agrarian Relations.[36] This includes the procedure for taking immediate possession of the land pending the expropriation suit.[37]

(2) The formulation of rules and regulations by the National Land Reform Council for the selection of agricultural lands to be acquired and distributed under the Code, the determination of sizes of family farms, and the manner of selecting beneficiaries to family farms available for distribution.[38]

(3) Judicial proceedings in the Court of Agrarian Relations with respect to matters within its jurisdiction.[39]

(4) Judicial review of decisions of the Court of Agrarian Relations.[40]

In all these instances, official discretion is broad and private rights are affected, that it assumes the greatest importance in the relationship between law and administration. If the law will protect the private citizen against deprivation of his rights without due process, then it must necessarily limit the sway of administrative action to that extent. The right to due process is, of course, paramount, being a constitutional right. As to its specific requirements, there is no specific answer, but will depend on the course of decisions of cases as they arise.[41] However, using the guidelines we have already adverted to, it is possible to draw the limitations of due process on the aforementioned administrative actions.

1. Institution of Expropriation Proceedings

Section 53 of the Agricultural Land Reform Code provides:

> SEC. 53. *Compulsory Purchase of Agricultural Lands.*—The Authority shall, upon petition in writing of at least one-third of the lessees and subject to the provisions of Chapter VII of this Code, institute and prosecute expropriation proceedings for the acquisition of private agricultural lands and home lots enumerated unler Section fifty-one. In the event a landowner agrees to sell his property under the terms specified in this Chapter and the National Land Reform Council finds it suitable

[36] Section 53.
[37] Section 54.
[38] Section 128 (3).
[39] Section 154.
[40] Section 156.
[41] Twining v. New Jersey, 211 U.S. 78, 29 S. Ct. 14.

> and necessary to acquire such property, a joint motion embodying the agreement, including the valuation of the property, shall be submitted by the Land Authority and the landowner to the Court for approval: *Provided*, That in such case, any person qualified to be a beneficiary of such expropriation or purchase may object to the valuation as excessive, in which case the Court shall determine the just compensation in accordance with Section fifty-six of this Code.

It will be noted that a minimal statutory requirement is recognized by the Code in the institution of expropriation proceedings for the acquisition of private agricultural lands. This refers to the requirement of a previous petition in writing of at least one-third of the lessees of the estate sought to be expropriated. Section 51 referred to in the provision prescribes the order of priority of lands within the locality which must be expropriated. These requirements are mandatory; a deviation from the procedure prescribed is necessarily fatal to the acquisition of jurisdiction by the Court of Agrarian Relations. They do not lose their character as due process requirements simply because they impose stricter compliance than the minimum under the Constitution. It has been uniformly held that a statute enacted by Congress is binding on an administrative agency even with respect to those rules which require procedural safeguards not required by the Constitution.[42] If the Land Authority, in initiating proceedings, acted without the requisite petition in writing, or failed to follow strictly the order of priority prescribed by Section 51, any interested landowner whose land is sought to be expropriated may impugn the validity of the proceedings as violative of the due process clause of the Constitution. This view is fortified by the fact that expropriation proceedings, and those of a similar nature, are strictly construed against the expropriating power. In fact, the Code itself recognizes the imperativeness of rigid adherence to statutory procedural requirements in expropriation proceedings in Section 155 which provides that in the hearing, investigation and determination of any question pending before the Court of Agrarian Relations, the Court "shall not be bound strictly by the technical rules of evidence and procedure, *except in expropriation cases.*" The Code thus excepts cases of exprorpiation from the general rule that administrative agencies are free from the rigidity of procedural requirements so long as they do not impair substantial individual rights.

Section 154 provides the authority and procedure for taking immediate possession of the land pending the expropriation suit, thus:

---

[42] Vitarelli v. Seaton, 359 U.S., 535, 545 (1959).

> SEC. 154. *Possession of the Land; Procedure.*—The Authority, after commencing the expropriation suit, may take immediate possession of the land upon deposit with the Court that has acquired jurisdiction over the expropriation proceedings *in accordance with the Rules of Court*, of money, and bonds of the Land Bank, in accordance with the proportions provided for under Section eighty of this Code, equal to the value as determined by the Court in accordance with the provisions of Section fifty-six hereof.

The Rules of Court are expressly made applicable to the manner of depositing money and bonds.[43]

2. Mode of Payment to Landowners

Section 80 of the Code provides:

> SEC. 80. *Making Payment to Owners of Landed Estate.*—The Land Bank shall make payments in the form herein prescribed to the owners of land acquired by the Land Authority for division and resale under this Code. Such payment shall be made in the following manner: ten *per centum* in cash and the remaining balance in six percent, tax-free, redeemable bonds issued by the Bank in accordance with Section seventy-six, unless the landowner desires to be paid in shares of stock issued by the Land Bank in accordance with Section seventy-seven in an amount not existing thirty *per centum* of the purchase price . . .

This particular provision has been assailed as an unconstitutional deprivation of property on the ground that the payment of just compensation for the taking of the land is not made fully in cash. We shall not delve into the merit of this argument, belonging as it does to the sphere of eminent domain. It is sufficient to state that the provision directs the mode of payment to be made; any derogation of the manner of payment may validly be raised as violative of the due process clause.

3. Rule-making by the Land Reform Council

Among the broad policy-making functions of the National Land Reform Council is included the authority to "formulate such rules and regulations as may be necessary to carry out the provisions of this Code for (a) the selection of agricultural land to be acquired and distributed under this Code; (b) the determination of sizes of family farms as defined in Section one hundred sixty-six; and (c) the selection of beneficiaries to family farms available for distribution." [44]

Here is an example of an express grant of a rule-making function. Strictly speaking, procedural due process guaranteed by the

---

[43] See Rule 67, New Rules of Court.
[44] Section 128 (3).

constitution does not usually extend to the making of general rules. The Constitution limits the contents, but decrees no "fair procedure" for the making of laws and regulations. Constitutional due process applies to individual decision-making only.[45] Thus, no hearing need be given to a party to be affected by the rules and regulations formulated by the National Land Reform Council as a matter of constitutional right. Nevertheless, there are certain standards that a rule issued by an administrative agency must conform to.

In order to be valid, a rule or regulation must neither violate the Constitution nor be based on a statute that violates the Constitution.[46] Of course, a statute, with or without a rule-making authority, may be unconstitutional for a variety of reasons that have nothing to do with administrative law, but rather fall within the scope of constitutional law. As far as administrative law is concerned, two instances may be cited wherein an enabling statute may violate the constitution: first, when there is an invalid delegation of the lawmaking power, and, second, when the statute purports to permit the administrative agency to follow an unconstitutional rule-making procedure, particularly one that violates the due-process law.[47]

Again, it is imperative that the rule made by the agency be in conformity with the statutory mandate. As a matter of positive law, every administrative agency may regulate the conduct of its business including the procedure it intends to follow, unless the statute limits the specific mode of procedure. To be able to issue valid substantive regulations, however, it must be expressly so authorized by the enabling statute.[48]

Another requirement evolved by jurisprudence is that the rule must be reasonable,[49] although in the final analysis, the requirement really amounts to no more than that the regulation must not exceed the statutory authority as conferred by the legislative body or vio-

---

[45] Parker, Administrative Law at 581.

[46] Conceivably a statute may be unconstitutional, but a subordinate regulation not, in that the latter does not make use of the unconstitutional authorization. See Marshall Field & Co. v. Clark, 143 U.S. 649, 697 (1892) (concurring opinion). In such an instance the courts will follow the principle that a law should be set aside only where this is necessary for the determination of the case before the court and they will leave the statute untouched as long as it is not unconstitutionally administered. U.S. v. Butler, 287 U.S. 1 (1936); Ashwander v. TVA, 297 U.S. 288, 346-348 (1936) (Dissenting Opinion of Justice Brandeis).

[47] Parker, Administrative Law at 59.

[48] U.S. v. George, 228 U.S. 14 (1913); Miller v. U.S., 294 U.S. 435 (1935); U.S. v. Eaton, 141 U.S. 677 (1892); U.S. v. Grimaud, 221 U.S. 506 (1911).

[49] Manhattan General Equipment Co. v. Commissioner, 297 U.S. 129, 134 (1936); International Ry. Co. v. Davidson, 257 U.S. 506, 514 (1922).

late the Constitution. In any event, what is reasonable or not is a matter for the judge to decide.

Applying these principles to the Agricultural Land Reform Code, it is clear that the National Land Reform Council is vested with a wide discretion "to formulate such rules and regulations as may be necessary to carry out the provisions of this Code" with respect to the matters enumerated therein. However, it is necessary that the rules must be reasonable, that is, they must neither be arbitrary nor capricious. Thus, in the formulation of rules for the selection of beneficiaries to family farms available for distribution, the Council must not adopt such rules which would discriminate against one class in favor of another. And in formulating rules for the selection of agricultural land to be acquired and distributed, the Council must not arbitrarily pick out land areas without regard to standard factors, such as geographical contiguity.

Other than the requirement of consistency with the enabling statute and the test of reasonableness, the due process clause does not demand any procedural requisite for the validity of the rule-making function of the administrative body. For example, "fair hearing" need not precede the issuance of a regulation by the National Land Reform Council for the selection of agricultural lands to be expropriated, although it is a requisite in the expropriation proceeding itself. As a matter of law, there is no constitutional right to any hearing whatsoever in legislation or rule-making.[50] Whenever hearings, formal or informal, are held to be preparatory to rule-making, this is purely a requirement of statutory law. And where the law is silent, as the Agricultural Land Reform Code is, no right to hearing may fairly be inferred. It has been said that even as the legislature itself is not bound to hear parties affected by intended legislation, the legislature need not require more of those organs that make laws in its name.[51] This, of course, does not mean that it is not desirable to hold at least informal hearings or base the making of regulations on a quasi-judicial record. It would seem advisory, in fact, that in issuing its rules, the Council follow at least a consultative or auditive procedure, to the end that those whose rights will be ultimately affected may at the outset be given a chance to present their side instead of waiting for actual adversary proceedings in order to challenge the validity of the rules.

---

[50] Willapoint Oysters, Inc. v. Ewing, 174 F. 2d 676, 694 (9th Cir. 1949). See Fuchs, Procedure in Administrative Rule-Making, 52 Har. L. Rev. 259 (1938).

[51] Fuchs, *op. cit. supra*, note 50.

4. Judicial Proceedings in the CAR

The question of due process in administrative agencies vested with quasi-judicial powers is a significant one, for while due process in administrative courts or tribunals is not necessarily judicial process,[52] it at least demands a semblance of judicial proceedings. Justice Brandeis' definition of due administrative process[53] still holds true: the tribunal must be impartial; the party affected must have notice; he must be heard; the procedure must amount to a fair trial; and where required by statute, there must be judicial review.

This is all the more true with the Court of Agrarian Relations established under the Agricultural Land Reform Code, which is, as a matter of fact, nothing less than a court of justice. We shall have occasion to discuss this point later.

The Court of Agrarian Relations created by the Code takes over the functions of the Court of Agrarian Relations established by Republic Act No. 1267, as amended by Republic Act No. 1409 which had jurisdiction over controversies or disputes "involving all those relationships established by law which determine the varying rights of persons in the cultivation and use of agricultural land where one of the parties works the land. . ."[54] But the Court under the Code has a much wider sphere of jurisdiction. This jurisdiction is spelled out in Section 154 of the Code as follows:

> SEC. 154. *Jurisdiction of the Court.*—The Court shall have original and exclusive jurisdiction over:
>
> (1) All cases or actions involving matters, controversies, disputes or money claims arising from agrarian relations: *Provided, however,* That all cases still pending in the Court of Agrarian Relations, established under Republic Act Numbered Twelve hundred and sixty-seven, at the time of the effectivity of this Code, shall be transferred to and continued in the respective Courts of Agrarian Relations within whose district the sites of the cases are located;
>
> (2) All cases or actions involving violations of Chapters I and II of this Code and Republic Act Numbered Eight hundred and nine; and
>
> (3) Expropriations to be instituted by the Land Authority: *Provided, however,* That expropriation proceedings instituted by the Land Tenure Administration pending in the Court of First Instance at the time of the effectivity of this Code shall be transferred and continued in the respective Courts of Agrarian Relations within whose district the subject matter or property is located.

---

[52] Reetz v. Michigan, 188 U.S. 505, 507 (1903).
[53] See In Re Oliver, *supra* note 17.
[54] Section 7, Republic Act No. 1267.

The due process requirements may be found in Section 155 of the Code as follows:

> SEC. 155. *Powers of the Court; Rules of Procedure.*—The Courts of Agrarian Relations shall have all the powers and prerogatives inherent in or belonging to the Court of First Instance.
>
> The Courts of Agrarian Relations shall be governed by the Rules of Court: *Provided, however,* That in the hearing, investigation, and determination of any question or controversy pending before them, the Courts without impairing substantial rights, shall not be bound strictly by the technical rules of evidence and procedure, except in expropriation cases.

The Court of Agrarian Relations, like any other administrative tribunal, is not narrowly constrained by technical rules of procedure as may be gleaned from the provision. This does not mean, however, that it can disregard the requirements of due process. Interpreting a similar provision referring to the Court of Industrial Relations, the Supreme Court, speaking through Justice Laurel, said in the case of *Ang Tibay v. Court of Industrial Relations* [55]:

> "The fact, however, that the Court of Industrial Relations may be said to be free from the rigidity of certain procedural requirements does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character. There are cardinal primary rights which must be respected even in proceedings of this character:
>
> (1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. In the language of Chief Justice Hughes, in Morgan v. U.S., 304 U.S. 1, 58, 58 S. Ct. 773, 999, 82 Law ed. 1129, "the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play."
>
> (2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented...
>
> (3) "While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached."...
>
> (4) Not only must there be some evidence to support a finding or conclusion, but the evidence must be 'substantial.'..."Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion"... The statute provides that "the rules of evidence prevailing in courts of law and equity shall not be controlling." The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would

[55] 69 Phil. 635.

be deemed incompetent, in judicial proceedings would not invalidate the administrative order. . . . But this assurance of a desirable inflexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence. . . . (Citations omitted).

(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. . . . Only by confining the administrative tribunal to evidence disclosed by the parties can the latter be protected in their right to know and meet the case against them. . . .

(6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume or work is such that it is literally impossible for the titular heads of the Court of Industrial Relations personally to decide all controversies coming before them. In the United States the difficulty is solved with the enactment of statutory authority authorizing examiners or other subordinates to render final decision, with right to appeal to board of commission, but in our case there is no such statutory authority.

(7) The Court of Industrial Relations should in all controversial questions render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it. . . ."

These cardinal primary rights guaranteed by due process requirement must be preserved in the proceedings before the Court of Agrarian Relations. This is all the more imperative by virtue of the provision in the Code that the Court of Agrarian Relations shall be governed by the Rules of Court, except that substantial compliance to procedural matters is deemed sufficient. In expropriation cases, of course, the rules of evidence and procedure are mandatory, in accordance with the exception in Section 155.

As already stated, the most basic requirement of due process is that the tribunal must be impartial, since a biased judge cannot accord a fair trial. There are sufficient safeguards in the Code to insure as much as possible the impartiality of the Court. The manner of appointment, the definition of qualifications, security of tenure and compensation are all geared to achieve this end. In fact the Code accords the Executive Judge and the Regional District Judges substantially the same rights and privileges accorded to judges of the Courts of First Instance. Thus the qualifications of judges of the Court of Agrarian Relations are the same as those required of judges of the Courts of First Instance,[56] suspension and removal for both

[56] Section 144.

may be made only in the same manner and upon the same grounds,[57] CAR judges are entitled to the same retirement and leave privileges as CFI judges,[58] and the Executive Judge shall receive an annual compensation equal to that allowed for CFI judges, while the regional district judges shall receive an annual compensation which is ₱1,000 less than that of the Executive Judge.[59]

Notice and hearing is another requirement of due process. Thus, in unfair labor practice cases that may be brought to the Court of Agrarian Relations pursuant to Section 154(2) in connection with Section 47, it is essential that adequate notice be given to the party against whom the complaint is made, otherwise there would be a violation of the requirement of due notice. The hearing, of course, must be pursuant to the notice, but a relatively small variance which will not impair substantial rights is not to be regarded as fatal, considering the nature of administrative proceedings and the end sought to be achieved.

In the matter of receiving evidence, while the Code provides that the Court of Agrarian Relations shall be governed by the Rules of Court, strict compliance of technical rules of evidence is not required.[60] This is simply a restatement of the general rule that administrative agencies are not subject to the same stringent technicalities as are ordinary courts of justice. Thus, the Court of Agrarian Relations may make its own inquiry into the facts at issue and take judicial notice of matters within the judicial ken. It is possible, therefore, for the Court to conduct investigations by itself or a member thereof or by any agent and make the findings the basis of a complaint, and the due process requirement is not violated by not allowing the parties to intervene in the investigations. It is only when the complaint is formally filed that the parties are entitled to answer and impugn the findings in the complaint. This has been the ruling adopted by the Supreme Court in proceedings for unfair labor practice in industries in the Court of Industrial Relations,[61] and it is submitted that the same would be applicable to proceedings in the Court of Agrarian Relations. The reason for not requiring notice and hearing in preliminary investigations is apparent when we consider that countless frivolous and unfounded charges have been filed before the administrative tribunal. The investigation would therefore protect the parties from vexatious proceedings by

[57] *Ibid.*
[58] Section 145.
[59] Section 144.
[60] Section 155.
[61] National Union of Printing Workers v. Asia Printing Co., 52 O.G. 5858.

a summary disposition of the charge, at the same time forestalling the unnecessary dissipation of the time of the administrative board.

It should be noted that under Section 158, the Court of Agrarian Relations may be assisted by court commissioners in the hearing and investigation of cases. Subject to the direction and supervision of the Court, the commissioners may hear evidence on any disputed point or issue. The question that arises is: Is the Court bound to any extent to accept the findings of the investigating commissioner? The answer seems to be in the negative, inasmuch as it is still the Court that is charged with the making of and the responsibility for its decisions. No violation of the requirement of due process is involved here. This has been the uniform ruling established by American courts,[62] and it is submitted that the same ruling applies to the Court of Agrarian Relations. This does not mean, however, that the Court must totally disregard the findings of the commissioner, especially when it is buttressed by substantial evidence. As officer of the court, his conclusions are entitled to much respect since they would be invaluable to the expeditious solution of the controversy. Besides, it is essential that the conclusions of the Court be supported by sufficient evidence, and the findings of the commissioner invariably furnishes this basis.

Is the right to have a counsel in legal proceedings before the Court of Agrarian Relations a requirement of due process? An analysis of the nature of the proceedings before the Court and a reading of the provisions of the Code point to the conclusion that right to counsel is an essential element of due process in the Code. However, this may be waived by the party entitled to it. In American jurisprudence, it is now recognized that the right to have counsel in any legal procedure is an essential element of due process.[63] And where this right is given statutory sanction, it becomes more apparent. The Code itself recognized this right in Section 163 which provides that agricultural farm workers and agricultural owner-cultivators who cannot engage the services of competent private counsel in cases before the Court are allowed to engage the services of the Office of Agrarian Counsel without charge, after proper notification.

As already adverted to, the exception to the rule that the Court of Agrarian Relations, like other administrative tribunals, is not bound to a strict compliance with rules of evidence and procedure, refers to expropriation cases initiated by the Land Authority. Here,

---

[62] Universal Camera Corp. v. NLRB, 340 U.S. 474 (1951).
[63] Powell v. Alabama, 287 U.S. 45 (1932).

literal adherence to technicalities is required. A landowner may not be deprived of his estate without rigid compliance with the procedural requirements, otherwise it would be tantamount to denying him his rights without due process of law. And this is so even if the Code imposes a stricter procedural requirement than that contemplated by the Constitution itself; the codal provision binds the Court. Thus, all the discussions we have just gone through will be no defense to an allegation that the rules of evidence and procedure have not been strictly complied with in expropriation proceedings.

Since the Rules of Court are made applicable, we may refer to Rule 67 of the New Rules of Court dealing on eminent domain. A complaint is specifically required, stating "with certainty the right and purpose of condemnation, describe the real or personal property sought to be condemned, and join as defendants all persons owning or claiming to own, or occupying, any part thereof or any interest therein, showing, so far as practicable, the interest of each defendant separately." [64] In the ascertainment of compensation to be made, the commissioners are required to give due notice to the parties in examining the property sought to be expropriated.[65] The Court must render judgment in accordance with the recommendation of the commissioners, unless the Court sets it aside and appoints new commissioners, or accepts it in part and rejects it in part, or recommits it to the commissioners for a new finding.[66] Thus, the Court is given a lesser latitude of discretion in considering the findings of the commissioners, since its judgment as to just compesnsation must be made in accordance with the recommendation of the commissioners.

It will not be inapposite to note that under Section 56, the compensation to be paid for the land expropriated must take into consideration as basis, without prejudice to other factors, the annual lease rental income authorized by law, capitalized at the rate of six per centum.

Before we leave the topic of due process in the proceedings before the Court of Agrarian Relations, this interesting query may be posed: Is the Court of Agrarian Relations a "court of justice" as the term is understood in the Constitution? Undoubtedly, it is an administrative agency since it is not intended to be a mere passive organ of the judiciary. Except in expropriation cases, it is not subjected to the same strict compliance with procedural rules as

[64] Section 1, Rule 67, New Rules of Court.
[65] Section 6, Rule 67.
[66] Section 7, Rule 67.

are ordinary courts of justice. And yet, it cannot be denied that it is not any different from the ordinary courts of justice in other respects. It is submitted that the Court of Agrarian Relations, unlike other administrative tribunals, is an entity *sui generis*, both an administrative body as well as a court of justice. While this observation may strike some people as a constitutional heresy which seems to ignore the constitutional precept of separation of powers, the discrepancy is more apparent than real. It cannot be denied that Congress has the power to create administrative courts as well as regular courts of justice; what constitutional impediment is there for Congress to lodge features of both tribunals in only one body? This observation is further fortified by the fact that the jurisdiction of the Court of Agrarian Relations covers a wide scope; it is not only limited to unfair labor practice cases and questions involving agrarian relations; it includes expropriation proceedings which under ordinary circumstances belong to the jurisdiction of the ordinary courts. As a matter of fact, Section 154(3) of the Code does take away expropriation proceedings from the jurisdiction of the Court of First Instance in no uncertain terms. By way of making a nice distinction, therefore, we can posit the view that as far as the jurisdiction of the Court of Agrarian Relations in Section 154 (1) and (2) is concerned, it is an administrative tribunal; but with respect to expropriation proceedings, it acts as an ordinary court of justice. The difference between compliance with rules of procedure justifies this differentiation.

I am not unmindful, of course, of the holding of Supreme Court in the case of *Metropolitan Transportation Service v. Paredes*[67] that the Court of Industrial Relations, an administrative body, is a court of justice as well. But in that case, the highest tribunal was using the phrase "court of justice" rather loosely, in the sense of being an adjudicative tribunal vested with powers to enforce and protect a right or to prevent and redress a wrong. It never implied that the Court of Industrial Relations was an integral part of the judicial system, and this in fact was affirmatively denied by the Supreme Court in another case.[68] The Court of Agrarian Relations, on the other hand, as it is now constituted under the Agricultural Land Reform Code, stands on a different footing when deciding expropriation cases. It acts as an ordinary court of justice acts, with the same breadth of authority and incidental powers, subjected to the same rules; its decisions are open to judicial review, even on

[67] 45 O.G. 2835.
[68] Ang Tibay v. Court of Industrial Relations, 69 Phil. 635.

findings of fact,[69]—a matter which is usually conclusive unless unsubstantiated in ordinary administrative proceedings. In view of the foregoing, it is submitted that the Court of Agrarian Relations in expropriation cases is part of the integrated judicial system, although an administrative tribunal in other cases.

5. Judicial Review of CAR Rulings

Judicial review of administrative proceedings is mainly a statutory right. Section 156 of the Agricultural Land Reform Code gives the extent of judicial review of orders or decisions of the Court of Agrarian Relations, thus:

> SEC. 156. *Appeals.*—Appeals from an order or decision of the Courts of Agrarian Relations may be taken to the Court of Appeals on questions of fact and of fact and law or to the Supreme Court on pure questions of law, as the case may be, in accordance with rules governing appeals from the Court of First Instance as provided in the Rules of Court.

The judicial review provided in this provision is substantially different from that permitted in other administrative bodies. In the Court of Industrial Relations, for instance, findings of the CIR with respect to questions of fact if supported by substantial evidence on the record shall be conclusive.[70] Even appeals from the old Court of Agrarian Relations established by Republic Act No. 1267 are limited to questions of law only, and only when the findings of fact are not supported by substantial evidence will the highest tribunal take cognizance of the appeal.[71] But under the Code, findings of fact or findings of fact and law are not conclusive; they may be appealed to the Court of Appeals, in the same manner as appeals are made from the Court of First Instance to the Court of Appeals.[72]

To the extent, therefore, that the findings of fact of the Court of Agrarian Relations are not deemed to be prima facie conclusive, *even if based on substantial evidence*, the rule regarding finality of administrative findings on matters of fact is deemed altered by the Agricultural Land Reform Code with respect to the CAR.

But what is the extent of findings of facts which may be reviewed by the Court of Appeals? Does the Code authorize a trial *de novo* as in cases of appeals from inferior courts to the Court of First Instance? A negative answer is obvious from a cursory analysis of the nature of administrative proceedings. Investigation of

---

[69] See Section 156.
[70] Section 6, Republic Act No. 875.
[71] Section 13, Republic Act No. 1267.
[72] See Rules 41 and 42, New Rules of Court.

facts lies within the peculiar province of expertness of the Court of Agrarian Relations. It is more in a position to make conclusive findings than the appellate court. Moreover, appeals from the Court of First Instance to the Court of Appeals on questions of fact does not authorize trials *de novo*; with more reason, the authority cannot be implied with regard to appeals from the Court of Agrarian Relations. Otherwise, there would be the anomaly of an appellate court passing judgment on facts which lie within the expertise of the trial court.[73] It is only where the trial court's discretion has been abused will the appellate court step in and review the findings of fact.

Orders and decisions of the Court of Agrarian Relations will be set aside if the procedure prescribed for its determination is not followed. The procedure, as already mentioned, is that prescribed by the Rules of Court. Non-prejudicial errors, however, or those harmless procedural faults, will not void an otherwise correct decision. This is a principle recognized in administrative law.[74] Thus, faulty notice will be cured by the party's actual, timely knowledge of the nature of the proceedings; variance there may be, but is not necessarily fatal; the exclusion of irrelevant evidence is desirable but not mandatory; the one who hears a case should refrain from stating his opinion on the merits during the trial, but if he does, the procedure is not necessarily voided. All these, however, will not apply to expropriation proceedings.

The judicial review of the Supreme Court is delimited to questions of law, both under the Code and the Rules of Court.

V. CONCLUSION

There is no dichotomy or basic conflict between due process and efficient administration. There may be, however, and sometimes there is, a difference of views as to whether the individual's rights and liberties in specific cases are restricted unreasonably by the demands of efficient administration of the government whose *raison d'etre* includes the upholding of these rights and liberties. The weighing of conflicting values and interests and a rational determination are the very essence of due process.

The Agricultural Land Reform Code undoubtedly restricts property rights; whether reasonably or unreasonably, we may not be

[73] See Dobson v. Commissioner, 320 U.S. 489 (1943); NLRB v. Hearst Publications, 322 U.S. 111 (1944).

[74] Market Street Ry. v. Railroad Commission of California, 324 U.S. 548, 561-562 (1945).

able to surmise until after an actual case has been brought and decided by the Supreme Court. But it seems elementary that fundamental principles of due process guaranteed by the Constitution must be observed in the operations of the agencies under the Code, so that taking may be lawful and process may be considered due.

It is interesting to note the polarity of conflicting interests involved in problems of administrative law. The scope of administrative action is becoming more and more expansive, in step with the growing bureaucracy of every modern government. On the other hand, constitutional rights of the individuals are being expanded by the courts to cover greater areas of protected activity. Due process of law, for instance, is constantly evolving, but fundamental concepts remain. It is well to remember the words of Chief Justice Warren speaking for the United States Supreme Court in the case of *Hannah v. Larche*:[75]

> "'Due Process' is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts. Thus, when government agencies adjudicate or make binding determinations which directly affect the legal rights of the individuals, it is imperative that those agencies use the procedures which have traditionally been associated with the judicial process. On the other hand, when governmental action does not partake of an adjudication, as for example, when a general fact-finding investigation is being conducted, it is not necessary that the full panoply of judicial procedures be used. Therefore, as a generalization, it can be said that due process embodies the different rules of fair play, which through the years, have become associated with differing types of proceedings. Whether the Constitution requires that a particular right obtain in a specific proceeding depends upon a complexity of factors. The nature of the alleged right involved, the nature of the proceeding, and the possible burden on that proceeding, are all considerations that must be taken into account."

[75] 363 U.S. 420, 442 (1960).

Republic of the Philippines
Department of Public Works and Communications
BUREAU OF POSTS
Manila

SWORN STATEMENT
(Required by Act 2580)

The undersigned, CRISOLITO PASCUAL, editor of the Philippine Law Journal (title of publication), published five times a year (frequency of issue), in English (language in which printed), at the College of Law, University of the Philippines (office of publication), after having been duly sworn in accordance with law, hereby submits the following statement of ownership, management, circulation, etc., which is required by Act No. 2580, as amended by Commonwealth Act No. 201:

Name	*Post-Office Address*
Editor: CRISOLITO PASCUAL	U.P., Diliman, Quezon City
Business Manager: IRENE R. CORTES	U.P., Diliman, Quezon City
Owner: College of Law, U.P.	College of Law, U.P., Quezon City
Publisher: College of Law, U.P.	College of Law, U.P., Quezon City
Printer: U.P. Press, Inc.	U.P., Diliman, Quezon City
Office of Publication	College of Law, U.P., Quezon City

If the publication is owned by a corporation, stockholders owning one per cent or more of the total amount of stocks: none.

Bondholders, mortgagees, or other security holders owning one per cent or more of the total amount of security: none.

In case of publication other than daily, total number of copies printed and circulated of the last issue dated August, 1963:

1. Sent to paid subscribers	413
2. Sent to others than paid subscribers	130
Total	543

(Sgd.) CRISOLITO PASCUAL
Faculty Editor

Subscribed and sworn to before me this 11th day of February, 1964 at Manila, Philippines, the affiant exhibiting his Residence Certificate No. A-4119201, issued at Quezon City, January 17, 1963.

(Sgd.) QUIRINO D. CARPIO
Notary Public until Dec. 31, 1964

Doc. No. 124
Page No. 26
Book No. VII
Series of 1964

(Note): This form is exempt from the payment of documentary stamp tax.