



A Brief on the Issue of Agricultural Lands as Loan Collateral

One of the petitions President Gloria Macapagal-Arroyo made to Congress during her first State of the Nation Address (SONA) was to enact a law making farmlands acceptable as loan collateral in order to reduce deterrents to investments in agriculture. This is a summary of ACPC's findings on the subject:

Why are farmlands not acceptable to banks as loan collateral? Studies show that banks regard the marketability of the collateral as among the most important factors in the evaluation of loan applications because its exchange value can actually mitigate their credit risk. Farmlands have not been acceptable to some banks because the distortions in the agricultural land market brought about by the government's land distribution programs have eroded their exchange value.

For instance, agricultural lands foreclosed in the event of loan default automatically fall under the jurisdiction of the Comprehensive Agrarian Reform Law (CARL) or RA 6657. That is, the bank, as the landowner, has to abide by the land ownership limits established by the law. However, the bank can dispose the land only to the government, which is likewise the one who determines the value. Moreover, government's payment on the land depends on the availability of funding.

Meanwhile, Government-issued Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) under the Agrarian Reform Program are non-transferable for a period of ten years, except to heirs or, again, to the state. In the case of Certificates of Stewardship Contracts (CSCs) issued by the DENR under the Integrated Social Forestry (ISF) Program, there is no clear policy on their acceptability as loan collateral. Due to these circumstances, government-issued land instruments therefore have no real market value.

Moreover, the Comprehensive Agrarian Reform Program (CARP) has been implemented at a very slow and prolonged pace. As a result, uncertainties over land ownership continue to erode the collateral value of agricultural lands, discouraging the flow of investments into agriculture.

How can farmlands become acceptable as collateral? Based on the preceding explanation, it is clear that farmlands can only become acceptable to banks as collateral once distortions in the agricultural land market are removed. ACPC believes that this can be done primarily by (a) amending the relevant laws to remove constraints to the marketability of government-issued land instruments, i.e., make the ownership of CLOAs, EPs, and CSCs transferable and at a much earlier date rather than after ten years, and (b) fast-tracking the completion of the CARP's implementation so that government's inappropriate involvement in setting land values and the uncertainties in land ownership can finally end.