

Agrarian Struggles and Institutional Change

The MAPALAD Struggle for Land

Eddie L. Quitoriano

**Published by
Management and Organizational
Development for Empowerment, Inc.
2000**

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Introduction

No other agrarian issue under CARP has captured more intense media, political and judicial attention than the long-running claims of landless farmers belonging to the MAPALAD farmers cooperative on the 144-hectare Quisumbing Estate in Sumilao, Bukidnon. The same issue caught the attention of two presidents - compelling executive action by President Fidel Ramos and policy reconsideration by President Joseph Estrada. The issue was eventually resolved at the highest level of the judicial system - the Supreme Court.

MAPALAD, or the *Mapadayong Paghiusa sa mga Lumad Alang sa Damilag* (Association of Indigenous Peoples for a Bright Future), is an organization of landless-farmers belonging to the *Higaonon* tribal minority in Barangay San Vicente, Sumilao, Bukidnon. The land they are claiming is the 144-hectare NQSRMDC Estate which lies along the Sayre Highway in the municipality of Sumilao, north of Bukidnon province. The estate, legally owned by the Norberto Quisumbing Sr. Management and Development Corporation (NQSRMDC), a family owned and controlled corporation, was formerly leased to the Del Monte Corporation, one of two biggest pineapple producers in the country. Upon expiry of the lease in 1993, the Del Monte Agrarian Reform Beneficiaries Cooperative Inc. (DEARBCI) presented itself as the legitimate beneficiary and submitted its claim to the Department of Agrarian Reform (DAR). The Provincial Agrarian Reform Adjudicator, however, rejected the DEARBCI claim in favor of MAPALAD members identified by the DAR as legitimate beneficiaries during the *Listasaka* Campaign in 1989.

The DAR started acquisition proceedings in 1990 but failed to complete the process since the estate was covered by the ten-year deferment for commercial farms. Less than four months before the expiry of the lease, NQSRMDC petitioned for conversion of the estate into non-agricultural use. This action was supported by a parallel move of the Bukidnon provincial local government unit (LGU) to "reclassify" the property and shield it from CARP coverage. The DAR's denial of the petition for conversion did not prevent the landowner from elevating the case to the Office of the President (OP). The LGU, on the other hand, petitioned the OP to uphold the former's authority to reclassify

lands based on the provisions of the Local Government Code (Section 20, RA 7160).

While the landowner and LGU were engaging the OP, the DAR cancelled the NQSRMDC title to the property and issued a collective CLOA in favor of MAPALAD members. The OP rendered its decision on March 29, 1996, in favor of NQSRMDC and the LGU, upholding the authority of the LGU to reclassify lands. The DAR contested the decision but twice failed on grounds of technicality. Banking on DAR support, MAPALAD members attempted to occupy the property but failed to do so because of strong landlord opposition and fear of violent reprisal.

Failing to attain its objectives on the ground, MAPALAD and its NGO allies raised the issue to the national level by trying to generate popular support through the media and mass actions and a hunger strike. Launched on the eve of the Presidential election, the extra-parliamentary series of actions succeeded in winning the public's attention and a compromise decision by the OP, hitherto known as President Ramos' "win-win" formula offering 100 hectares to MAPALAD and 44 hectares to NQSRMDC.

Executive intervention, however, did not totally solve the problem. It strengthened the claims of the farmers towards the land, but it did not result in the actual installation of the farmers on the disputed property. The LGU and NQSRMDC took concerted action to elevate the case to the Supreme Court, contesting the validity of the Presidential action and seeking to inhibit the DAR from distributing the property. Twice in 1998, the Supreme Court's (SC) Second Division ruled and reaffirmed its decision to nullify President Ramos' November 7, 1997 "win-win" formula. The DAR, MAPALAD and its NGO allies, separately moved to contest the Supreme Court decision, aiming to convince the SC to deliberate the merits of the case en banc.

A campaign to solicit one million signatures in support of the farmers was launched, but was unsuccessful. PO-NGO pickets were maintained in front of the SC building. On August 19, 1999, the SC rendered its final decision - nullifying Ramos' "win-win" formula and effectively denying MAPALAD's claims over the property. The court rejected the farmers' claim in view of the nullity of the "win-win" formula or its logical continuum - that no legal rights can emanate from a resolution that is null and void. The ruling also stressed that the farmers can no longer appeal before the SC en banc.

The Supreme Court decision reinforces an important aspect in agrarian reform advocacy - that rights to land under the provisions of CARP are not exclusive and absolute rights in favor of farmer-benefi-

ciaries but are subject to other laws of the land. Agrarian reform initiatives can be legally challenged in terms of its consistency with enshrined rules on property rights and with existing jurisprudence that may appear separate from, but are actually interrelated to, the various executive actions needed to undertake agrarian reform.

CARP is not autonomous from other measures designed to enhance sustained and broad based economic growth. Agrarian reform is designed to eradicate poverty and propel growth, but it has to compete with other modalities that are argued to equally serve the aim of growth with equity. The Sumilao case is an excellent example of the clash between “growth with equity” models, and how one group is able to position its model as the “best practice” compared to other.

The Comprehensive Agrarian Reform Law (CARL or RA 6657) should neither be seen as an island in relation to jurisprudence on property rights. CARL does not give final adjudication power to the Department of Agrarian Reform. This legal framework, used effectively by the landowner in the case of Sumilao, renders inutile the promises made by then President Corazon Aquino (who signed RA 6657 into law in 1988) that the Act by itself should ‘end all the acrimony and misgivings of the contending parties to the (agrarian reform) program.’

Land claims under CARP can be reshaped by a political act, as in the intervention of the President through the win-win formula, or through judicial intervention through legal interpretations made by the Supreme Court, as exemplified in its April 24 and November 17, 1998 decisions to nullify the President’s action. The strategy and conduct of an agrarian struggle thus requires an assessment of politico-judicial currents over time. As Fr. John J. Carroll, S.J. would put it: “were the MAPALAD farmers mistaken in relying on the courts and the DAR?”¹ Fr. Carroll raised this question with reference to the legal impasse created by the powerful legal maneuverings of the landlord and the LGU which led to the Supreme Court’s (Second Division) decision in their favor.

The MAPALAD struggle is a case where the politics of collective action aimed at manipulating the coercive power of the state (Hayami, 1997) may not necessarily bring benefits to the people engaged in that collective action. In political markets², various interest groups exhibit character shifts to express the heterogeneity of interests. Pressure on

¹ Fr. John Carroll, S.J., “Will Mapalad farmer sever find justice?,” *Philippine Daily Inquirer*, March 23, 1999, p. 2.

² Y. Hayami, *Development Economics* (Oxford: Clarendon Press, 1997), p. 21. The term is adopted from Hayami’s treatise on the logic of political markets. He defines political markets as the demand and supply of public goods from various interest groups. He argues that the mechanism of the political market does not guarantee the optimum supply of public goods in terms of economic well-being of society.

the state may bear results in favor of an organized group if such group is able to generate enough critical mass and forces the state to act in its favor.

The legal nuances are beyond the scope of this study (although the study points to legal decisions as milestones or guideposts at every stage of the struggle). The study aims to analyze the case in retrospect, from the vantage point of agrarian reform strategy as managed by pro-reform forces within society and the state. The retrospective on the relationship and play of pro-reform players, especially that of state reformists and pro-reform social groups, is informed by the literature on state-society interaction and theories of collective action.

Chronology of Events and Analysis of Strategy ³

The contested area refers to a 144-hectare piece of agricultural land located at San Vicente, Sumilao, Bukidnon, owned by the Norberto Quisumbing Sr. Management and Development Corporation (NQSRMDC). The property was leased to Del Monte Philippines (then Philippine Packing Corporation) for a period of 10 years under a Crop Producer and Grower Agreement which expired in April 1994.

The central issue is the implementation of CARP - DAR to acquire the NQSRMDC property and redistribute it to legitimate beneficiaries after paying the landlord a just compensation.

The protagonists include, on one side, NQSRMDC and the Bukidnon LGU, and on the other side, the DAR, MAPALAD farmer-claimants and its NGO allies. NQSRMDC is led by the Quisumbing patriarch, Norberto Quisumbing Sr., owner of big tracts of land in Bukidnon in Mindanao, and in Bulacan and Nueva Ecija in Luzon. Quisumbing claims that he supports CARP as evidenced by his cooperation in the DAR acquisition and redistribution of some of his landholdings in Nueva Ecija, Bulacan and Bukidnon. Arrayed behind NQSRMDC are formidable allies like the Bukidnon Provincial Government, Municipal Government of Sumilao, Department of Interior and Local Government, Office of the Presidential Assistant for Mindanao and government rural line agencies, including lower echelon staff of the Department of Agrarian Reform.

On the pro-reform side, the most important group is MAPALAD, an 81-member organization of landless farmers composed mainly of indigenous peoples of the *Higaonon* tribe registered as a cooperative in 1995. Its original name was PAGLAUM (HOPE), established in 1991 when the DAR recognized the group as legitimate beneficiary of the 47-hectare Carlos Estate (adjacent to the NQSRMDC estate) in Sumilao. In 1997, MAPALAD was awarded 19 hectares of the Carlos Estate but the beneficiaries were never installed. The landowner contested the DAR move on the ground the department failed to conduct any valuation of the property.

³ Chronological data excerpted from case files at the Balay Mindanaw Foundation courtesy of Atty. Arlene Bag-ao, Counsel for MAPALAD.

MAPALAD is supported by Agrarian Reform Now (AR NOW), an aggrupation of agrarian reform advocates composed of Balay Mindanaw Foundation (A Mindanao-based NGO), SALIGAN (a legal aid group), KAISAHAN (a socialist oriented NGO) and the Philippine Partnership for the Development of Human Resources in Rural Areas (PHILDHERRA) - affiliated local NGOs and POs. In the social movement, the aggrupation is known to be part of the progressive social-democratic and socialist stream involved in agrarian reform advocacy within the defunct Congress for a People's Agrarian Reform (CPAR, 1987-1990). Senior members of the group are credited for pioneering engagements with the state, specifically the DAR, in the implementation of CARP. They are closely linked and supported by sections of the Catholic church, especially the Jesuit community. NGO members of the group were actively engaged with the DAR during the tenure of Secretary Ernesto Garilao, two of its senior leaders having been undersecretaries of the department. They are known for promoting "tripartism", institutionalized as the Tripartite Strategy for Agrarian Reform and Rural Development (TRIPARRD), an agrarian reform strategy that aims to create triangular cooperation and coordination in agrarian reform advocacy and implementation between government (GO), non-government organizations (NGO) and peoples organizations (PO). The TRIPARRD framework is financially supported by ODA programs and by several international NGO donor agencies.

The unfolding of events and the interplay of the protagonists are best seen by reviewing actions and outcomes in different stages of the struggle, first from within the parameters of CARP and ultimately from within the parameters of the Local Government Code when the Supreme Court handed down its "final" verdict on August 19, 1999 in favor of the Bukidnon LGU and the landowner.

1990: DAR Places the Farm under CARP Coverage

Despite the existing lease agreement and the estate's enjoyment of a ten-year deferment period under Section 8 of the Comprehensive Agrarian Reform Law, the Municipal Agrarian Reform Officer of Sumilao issued a Notice of Coverage on January 3, 1990. (See Figure 1)

The total CARP scope in Bukidnon is 368,511 hectares, almost a quarter of the province's territory consisting of 960,000 hectares. Data cleansing, however, identified 239,501 hectares (64%) of deductible or non-CARP lands leaving a working scope of 129,010 hectares. As of December 1998, 115,144 hectares had been distributed to farmer-beneficiaries. More than one-half of the area consisted of government-

Figure 1
Overall Game: Landowner vs. State Reformists and Mapalad

Objective
To implement CARP

Best solution:
QIV - ARB get land, LO is justly compensated

Other possible outcomes:
QI - LO keeps land, nothing for ARB
QIII- ARB get land, no just compensation for LO
QII - no just compensation for LO, nothing for ARBs

		D/M	D/M
Q	(+,+)	QIV	QI (+,-)
	(-,+)	QIII	QII (-,-)

owned lands (GOLs) and settlement sites. PHILDHRRRA's TRIPARRD Program was able to cover (transfer) 1,913 hectares (1.6% of working scope) between 1989 and 1998. Of the remaining balance of 13,866 hectares, close to 90 percent consisted of private agricultural lands (PALs).

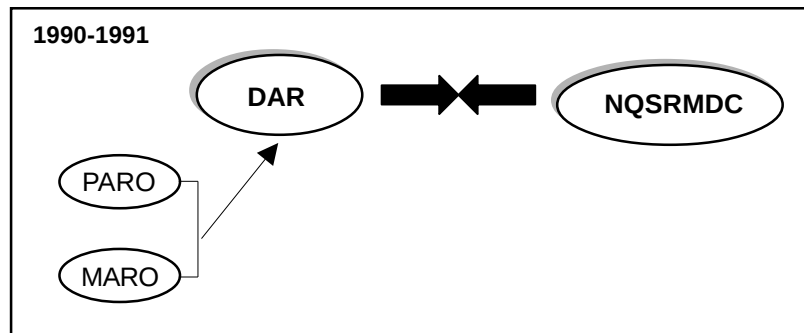
Two years into CARP implementation, the DAR could not have overlooked the deferment clause in the program nor the existence of a lease agreement between NQSRMDC and Del Monte Philippines, the singularly prominent pineapple agribusiness concern in the province and one of the three biggest plantations in the whole of Mindanao. Neither could the NGO partner have overlooked the same since they had dealt with the same landowner on the Voluntary-Offer-to-Sell (VOS) scheme on the latter's 100-hectare property in the adjacent municipality of Impasug-ong. Yet the DAR placed the land under immediate coverage. (See Figure 2)

By placing the land under coverage, DAR was impinging upon one of the pillars of the country's export sector and the province's major source of revenue, an issue raised by DAR's own legal counsels. It is not surprising therefore that the DAR and its attached quasi-judicial entity, the Provincial Adjudicator (PARAD), would constantly quarrel with each other at many stages of the battle for the NQSRMDC property.

1991: Coverage is Upheld by DAR

For two years from the beginning of 1990 to the end of 1991, no one from within the DAR bureaucracy apparently looked into the legitimacy of the Notice of Coverage. No one bothered to check why the land-

Figure 2
Alignment of Forces



owner ignored the notice and sat on the case, citing the lease agreement with Del Monte Philippines. No major initiatives were undertaken to organizationally prepare the would-be beneficiaries. As early as 1989, MAPALAD members were identified by the DAR as priority beneficiaries of the NQSRMDC estate and the adjacent 47-hectare Carlos estate.⁴ Social preparation should have been a necessity given the configuration of the identified beneficiaries and the fact that there were counter-claims by other farm workers who were not identified by the DAR.⁵ In the TRIPARRD experience, most acquisition proceedings were usually done by the DAR in partnership with claimants at the start of the struggle. This sort of tripartite preparation did not happen in the case of Sumilao - an oversight that would impact upon the struggle later on.

On October 25, 1991, the DAR Regional Director (Region X) issued a Notice of Acquisition and on December 23, 1991, Land Bank Region X issued a Notice of Valuation to DAR Region X and a Memo of Valuation to the DAR Secretary.

1992: Two-Player Game, DAR on the Defensive

The landowner's response to the acquisition and valuation notices was to systematically put the DAR on the defensive. When the DAR Regional Director issued a Notice of Valuation to NQSRMDC on January

⁴*The MAPALAD Struggle: In the Context of the Misinterpretation of Section 20 of the Local Government Code*, a paper prepared for the Local Governance Participation Fair held on March 17-18, 1999 at the Mercure Grand Hotel, Davao City. This paper was furnished to the author by Mr. Gerry Bulatao, former Undersecretary of the Department of Agrarian Reform.

⁵MAPALAD as beneficiary was identified through the DAR's Listasaka campaign. Not all members of MAPALAD, however, were former workers of the Quisumbing estate while it was under lease with Del Monte. Other former workers who are non-members of MAPALAD were not identified by the DAR as beneficiaries.

16, offering a valuation of PhP 2,388,490.56 or roughly PhP 16,587 per hectare, the landowner was obliged to counteract. On February 18, NQSRMDC filed a petition with the DAR Adjudication Board contesting the notice of acquisition citing Section 8 of RA 6657 arguing that the land was under lease thus enjoying a 10-year deferment period.

On March 31, 1992, the Provincial Agrarian Reform Adjudicator (PARAD) of Bukidnon ruled in favor of NQSRMDC ordering the respondents (DAR Regional Office, Land Bank, PARO and MARO) to desist from pursuing any activity or activities concerning the property. (See Figure 3)

Figure 3
1990-1992 Subgame: LO (Q) vs. DAR

		D	
Q		QIV	QI
		(+,+)	(+,-)
Q		QIII	QII
		(-,+)	(-,-)

Objective:
Define whether Q's property is covered by CARP

Outcome:
QI – Q keeps land; land under lease and deferred for 10 years

Despite the decision of the adjudicator, the DAR Regional Director directed Land Bank to open a trust account in favor of NQSRMDC on May 21. On June 1, the Land Bank opened a trust account in the name of NQSRMDC in the amount of PhP 2.38 million as payment for the land. Under CARP, the Land Bank determines land valuation according to market rates and intermediates land compensation. Technically, farmer-beneficiaries do not assume legal ownership of the redistributed land until after completion of amortization payments. Farmer-beneficiaries are given thirty (30) years to pay and the Land Bank has to complete compensation payment to the landlord within ten (10) years.⁶

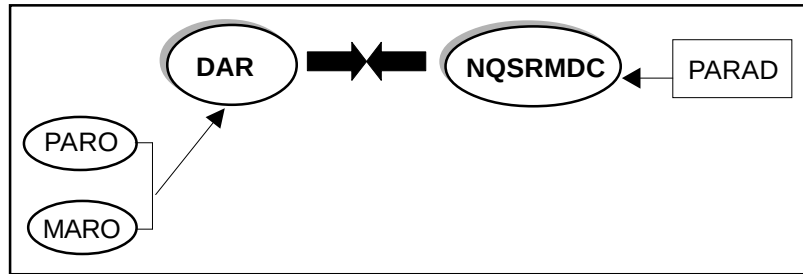
Confident of its legitimate stance and instead of contesting the valuation which was much lower than the PhP 25,000 per hectare quoted by the Land Bank for its other properties in Impalutao and Impasug-

⁶Interview with Atty. Jesus Diaz, Vice-President for Legal Affairs, Land Bank of the Philippines, at the Land Bank Makati Office on February 25, 1999. The interview was conducted by Ms. Rachael Morala, research assistant to the author in another research project.

ong, Bukidnon NQSRMDC filed a motion to enforce the March 31 PARAD decision citing violation of the DAR and the Land Bank in proceeding with the land valuation on June 9.

On October 22, 1992, the PARAD-Bukidnon ordered the DAR Regional Director, Land Bank and other public respondents to seriously comply with the court decision, declaring null and void the summary proceedings of the respondents. Land Bank was also ordered to return the claim folder to the DAR Regional Office. This meant that the property ceased to be covered by CARP unless ordered by the DARAB-Bukidnon or a higher court. (See Figure 4)

Figure 4
1992 Alignment of Forces



The DAR did not contest the decision. On October 28, the Land Bank returned the claim folder and the same was received by the PARO of Bukidnon. The return of the claim folder and the issuance of the Credit Advice and Credit Ticket indicates that the Land Bank obeyed the DARAB orders dated March 21 and October 22, 1992. On November 9, the DAR's Provincial Agrarian Reform Officer (PARO) cancelled the deposited cash and bond.

1993: Landowner-LGU Counter-Offensive

Institutional theorists argue that rules and laws are shaped by history (Putnam, 1993; 8-9), a truism that applies to the Bukidnon LGU where local landlord interests are embedded in the historical struggle of the LGU for autonomy. Local elites in the province are in power based on land ownership and their ability to reinforce such rights and gain maximum value by linking up with big industry. It is no wonder that the Provincial Governor, Carlos Fortich -- an icon of landlordism in the province -- is vehemently against agrarian reform. He and most of the municipal Mayors as well as local legislators have been raising numerous concerns against CARP. They oppose the ancestral claims of seven (7)

indigenous tribes in the province comprising 560,000 hectares or around 60 percent of the provincial territory on top of the 368,000 hectares originally covered by CARP. As argued by the Chairman of the Agriculture Committee of the Sangguniang Panlalawigan (SP- Provincial Council), CARP threatens the territorial scope of the LGU and undermines the latter's capacity for sustainable growth through revenues from agriculture and land markets.

The enactment of Republic Act 7160 otherwise known as the Local Government Code of 1991, has emboldened local government units to exercise autonomy and contest land redistribution under CARP. Plagued by loopholes, CARP is easily contestable from many angles and such contestation is formidable when landlords establish alliances with LGUs as well as other units of state. "Unpacking" the Bukidnon LGU reveals the traditional bond between local elites in politics and landowners and their joint capability to seek institutional support from other units of government.

Less than four months before expiry of the lease, NQSRMDC filed an application for land use conversion - from agricultural to agro-industrial use - with the Office of the DAR Secretary on December 11. Gerry Bulatao, former DAR Undersecretary and staunch supporter of MAPALAD, claims that the application for conversion was not valid since there had already been a Notice of Coverage under CARP.⁷ Sequentially, however, the 1990 Notice of Coverage was already nullified and new acquisition proceedings were only started in 1994. This provided an opportunity for the landowner, in collusion with the LGU to seize the initiative in deciding the future of such landholdings. The landowner's application for conversion was supported by successive parallel moves of the LGU:

- a. On January 7, the Provincial Development Council of Bukidnon passed Resolution No. 6 designating areas within one (1) kilometer on both sides of the Bukidnon Sayre Highway as Agro-industrial Zones for the province, known as the Manolo Fortich-Valencia-Maramag Corridors.
- b. On January 21, the Municipal Council of Sumilao passed Resolution No. 10 extending full support to NQSRMDC for the establishment of the Development Academy of Mindanao in San Vicente. It also declared the estate an Agro-Industrial Park.

⁷ *op. cit.* p. 6.

- c. On March 4, the Municipal Council of Sumilao passed Resolution/Ordinance No. 24 converting the 144-hectare property from agricultural to Industrial-Institutional Areas. Section 20 of the Local Government Code (RA 7160) specifies passage of an ordinance after a public hearing to reclassify lands for other uses.⁸
- d. On October 12, the Provincial Council passed Resolution No. 24 jointly approving the proposed establishment of the Bukidnon Agro-Industrial Development Area (BAIDA) project. The resolution was approved and signed by Governor Carlos Fortich. (See Figure 5)

Figure 5
Sub-Game: LO/LGU vs. DAR

		D	
QL	Objective: Define whether land can be converted to agro-industrial use	(+,+) QIV	QI (+,-)
	Outcome: QI – DAR issued CLOA but failed to distribute it; LGU reclassified LO property as agro-industrial area	(-,+) QIII	QII (-,-)

1994: Landowner-LGU-Local DAR Convergence

According to the TRIPARRD implementors, the Governor and most of the Municipal Mayors of Bukidnon were anti-CARP. Yet the TRIPARRD Program was able to move close to two thousand hectares of which 59 percent were covered by the VOS scheme. Between 1989 and 1998, TRIPARRD implementers did not get the cooperation of municipal governments but neither were they effectively blocked by said governments as evidenced by the successful movement of land in favor of farmer-beneficiaries. Evidently, lands moved by TRIPARRD were

⁸ The Bukidnon LGU's exercise of authority under Section 20 is being contested by the MAPALAD farmers and their allies. Mr. Gerardo Bulatao himself describes the LGU move as being defective because the NQSRMDC property was already covered by CARP by virtue of the Notice of Coverage issued in 1990. In Bulatao's view, the Notice of Coverage was merely suspended due to the lease agreement then in force.

owned by “willing” landowners no longer interested in holding on to non-prime lands.

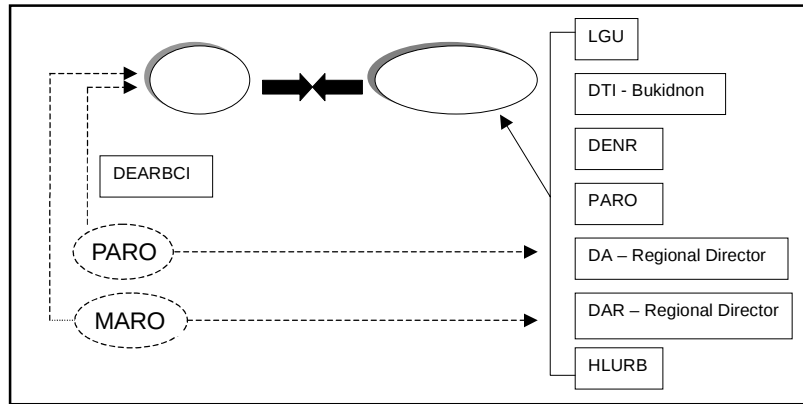
The Bukidnon LGU zeroed in on major areas of revenue or potential areas of investments. It contrasted its own model of growth with equity using the agro-industrial development zone framework. The LGU argued that this was essential for global competitiveness and for generating maximum impact on poverty through the employment generated. Despite the perception that this modelling was simply a ploy to avoid redistribution, the anti-reform forces were nevertheless able to raise the battle to a higher plane, or at least, erode the public's perception that this was simply a matter of social justice. This would signal the start of a conceptual battle between the LGU and the pro-CARP forces.

- a. On February 1, the Sangguniang Panlalawigan of Bukidnon passed Resolution No. 94-95 adopting and confirming resolution No. 24 enacted by the Sangguniang Bayan of Sumilao.
- b. The Sangguniang Panlalawigan also passed and enacted Provincial Ordinance No. 95-03 creating the Bukidnon Investment Grid (BIG) covering strips of land three (3) kilometer on each side of the Sayre Highway from Manolo Fortich to Damulog and other major highways of the province. Accordingly, investors relocating within this area would enjoy incentives and tax holidays.
- c. The Provincial Director of DTI-Bukidnon certified that his office has adopted the Bukidnon Agro-Industrial Development Area (BAIDA) project as one of its Flagship Projects and cited that the same would benefit at least three (3) nearby agrarian reform communities (ARCs).

Armed with a loftier purpose, the LGU's actions would be able to shift in their favor the position of some locally-based CARP implementing agencies such as the Department of Environment and Natural Resources (DENR), the Department of Agriculture (DA), and the Department of Trade and Industry (DTI). This alignment of forces would later include even the DAR Regional and Provincial Offices. (See Figure 6)

On March 7, the DENR Regional Technical Director certified that his office interposed no objection to the BAIDA project provided that an Environmental Clearance Certificate (ECC) should be secured prior to implementation. On March 28, the Bukidnon PARO recommended the lifting of the Notice of Acquisition and the granting of a clearance for conversion.

Figure 6
1994 Alignment of Forces



On March 30, the DA Regional Director endorsed the certification of the Provincial Agricultural Officer (PAO) dated July 13, 1993, stating that converting the property to agro-industrial use would be more productive. Finally, on April 18, 1994, the DAR OIC Regional Director, Charlito Manlupig, informed the DAR Secretary that the Regional Land Use Conversion Committee (RLUCC) interposed no objection to BAIDA “considering the economic and social impact that will benefit the locality where the said project is located.”⁹

The local DAR’s move was a tactical maneuver designed to parry the tremendous and constant pressure from the landowner and the provincial governor of Bukidnon on the DAR. OIC Director Manlupig consulted with DAR Secretary Ernesto Garilao and Undersecretary for Operations Butch Olano on possible means to deflect the pressure. In their view, the pragmatic move was to shift the legal arena to the DAR central office by endorsing the petition. In this context, he conditionally gave a recommendation that the application for conversion be given approval upon submission by the applicants of the unfulfilled requirements as mandated by AO 1, Series of 1990.¹⁰ The OIC Director also

⁹ 1st Endorsement by Charlito Z. Manlupig, OIC Regional Director, DAR Region X, April 18, 1994. Mr. Manlupig, subsequently, moved to PhilDHRRA, then became Executive Director of Balay Mindanao Foundation. He is a staunch supporter of MAPALAD in the Sumilao case. During a phone interview with the author on March 15, he emphasized that he never took a pro-conversion or pro-Quisumbing stance in the Sumilao case, even during his short stint as OIC Regional Director of the DAR Region 10.

¹⁰ The requirements include the following: photocopy of title certified by the Register of Deeds (ROD), location map, certification by the HLURB, proof of financial and organizational capability, DENR certification, certificate of posting, landowner undertaking to pay disturbance compensation with agreement signed by tenant or farm worker, project profile, articles of incorporation and approval of the incorporation by the Securities and Exchange Commission.

imposed several requirements and conditionalities on the landowner.¹¹

The decision to endorse was a judgement call that the local DAR took to transfer the arena of struggle to a higher level. The director claims that then Secretary Garilao promised to deny the petition.¹² However, the 1994 endorsement was used by the landowner and the LGU as added ammunition in their succeeding moves. In fact, one can argue that the same conditions imposed were more than sufficient not to endorse the petition for conversion. The outcome of the move did not match the intentions of the local DAR as it was used by the landowner as proof of support (by the MARO, PARO and Regional Director)¹³

In addition, the Housing and Land Use Regulatory Board (HLURB) Regional Officer certified that the NQSRMDC property was within the Agricultural Zone indicated in the Town Plan of Sumilao passed on November 18, 1991 and that it had been reclassified by the Municipal Council as Industrial on June 3, 1993.

While this seeming convergence was happening, another organization started to make claims on the land. On March 30, the Del Monte Agrarian Reform Beneficiaries Cooperative Inc. (DEARBCI) filed a petition with the DARAB-Bukidnon citing delays in the distribution of the land to qualified beneficiaries and complaining of unwarranted opposition by the landowner. It is to be noted that the DEARBCI is a cooperative of former workers of the Del Monte Plantation who became beneficiaries of the pineapple plantation. Upon transfer of ownership, they opted to enter into a lease-back arrangement with Del Monte. Despite their status as owners of the adjacent plantation, they attempted to claim the Quisumbing estate.

On August 9, the DARAB-Bukidnon denied the DEARBCI petition citing that the members of the cooperative were not landless farmers but regular employees of Del Monte Philippines and not residents of San Vicente, Sumilao. On September 17, the DEARBCI filed a motion for consideration but the same was denied with finality by the DARAB.

On November 14, the DAR Secretary denied the NQSRMDC petition for conversion citing failure of the applicant to satisfy a number of documentary requirements and non-compliance of certain rules and regulations related to land conversion (as per AO No. 12, series of 1994). The DAR position was supported by the National Irrigation Administration which issued a certification on November 28 stating that the

¹¹ Gathered during a phone interview with Mr. Charlito Manlupig on March 13 and March 15, 1999.

¹² Gathered during a phone interview with Mr. Charlito Manlupig on March 13 and March 15, 1999.

¹³ Information contained in Gerry Bulatao's letter to the author dated March 19, 1999.

NQSRMDC property is within the service area of the existing Kisolon Communal Irrigation System and therefore, the subject property was agriculturally productive and excluded from conversion.

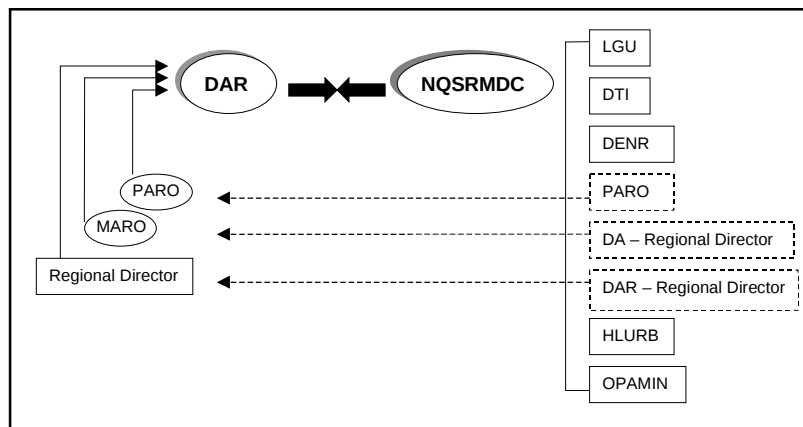
1995: Anti-Reform Forces Move to Widen Support

The local DAR swerved from contestation, to collaboration with the landowner, and then again to contestation. The landowner, on the other hand, built consistent support from the LGU and the DENR and expanded such backing by getting the favorable recommendations of the Department of Interior and Local Government (DILG) and the Office of the Presidential Assistant for Mindanao (OPAMIN). The DAR Central Office, meanwhile, remained consistent in its opposition to the landowner and the LGU.

On January 9, NQSRMDC filed a motion for reconsideration with the Office of the DAR Secretary while garnering support from other players like the DENR. On June 5, the DENR-Region 10 issued Environmental Clearance Certificate (ECC) #95-LC-1013-661 stating among others that the proposed land use conversion was found to be ecologically sound. But on June 7, 1995, the DAR Secretary issued an order denying with finality the application for conversion. The decision was passed on to the Regional DAR and on April 28, 1996, the Bukidnon PARO, complying with the order of the DAR Regional Director, issued an order to the Sumilao MARO to distribute the property to farmer-beneficiaries 45 days after the beneficiaries have been identified. (See Figure 7)

Reacting to the final decision of the DAR Secretary, NQSRMDC

Figure 7
1995 Alignment of Forces



filed an appeal to the Office of the President. The game had reached a higher ground. The appeal was seconded by a parallel appeal of the Provincial Governor on June 28 requesting that the action of the LGU be granted. On July 25, the OPAMIN headed by Mindanao-based agribusiness executive Paul G. Dominguez, wrote a memo to President Ramos, through Executive Secretary Ruben Torres, recommending the approval of the conversion and BAIDA project. Dominguez did this after sending his own Survey Team to evaluate the area.

Legal battles are usually won by utilization of nuances such as previous rulings, loopholes and contravening laws. The landowner promptly shifted tactics by citing that a legal conflict in land zoning between RA 6657 (CARL) and RA 7160 (Local Government Code). Asserting that the issue was now anchored on whether the DAR had the power and authority over lands reclassified by the LGU, NQSRMDC filed a petition for Certiorari, Prohibition with Preliminary Injunction with the Court of Appeals (CA) on June 29, 1995.

Pending resolution by the CA, the DAR on August 11 caused the cancellation of the Title of NQSRMDC and had it transferred to the Republic of the Philippines using the certification issued by the Land Bank to the effect that the amount of PHP 2,388,400.36 had been earmarked as compensation for the land.⁴⁴ By the following month, on September 25, the DAR caused the issuance of the CLOA and had it registered in the name of 137 farmer-beneficiaries under Transfer Certificate of Title (TCT) No. AT-3536. On the same day, the DAR Secretary wrote the president of NQSRMDC stating that the case was now with the Office of the President.

Meanwhile, NQSRMDC continued to accumulate more institutional support and utilize these to solidify its position. On August 23, the DILG Secretary, Rafael Alunan, recommended approval of the conversion on the ground that the LGU exercised legitimate authority to chart its own destiny in the spirit of autonomy as provided for in the Local Government Code. And on September 30, Governor Fortich wrote the Executive Secretary reiterating the desire of the LGU to improve the economic landscape of the province through the BAIDA project.

While the NQSRMDC petition (questioning the authority of DAR

⁴⁴ For the purpose of qualifying it as just compensation, the SC ruled that the money should be deposited or bonds issued to fully qualify for payment. Only when the landowner has been fully paid shall the title be cancelled and transferred to the Republic of the Philippines. And only thereafter, shall the CLOA be issued by the DAR. The new title shall be issued in the name of the beneficiaries and entered in the ROD.

to place the property under CARP) was being deliberated by the CA,¹⁵ the DAR issued the CLOA in favor of farmer-beneficiaries belonging to MAPALAD, entered in the Register of Deeds as TCT No. AT-3536 on October 13, 1995.¹⁶ However, the CLOA was not distributed.

According to MAPALAD and its NGO allies, this was the point where the DAR could have been decisive. It had been decisive enough in contesting the LGU move to reclassify the land but it was not determined enough to raise the ante by distributing the CLOA and installing the beneficiaries. On the other hand, without the CLOA in their hands, MAPALAD, by itself, would not be in a position to install its legitimate member-beneficiaries in the property.

The question of decisiveness is raised here since the next logical step would have been for DAR to install the farmers on the land. DAR was clearly confident about the correctness of its actions when it issued CLOAs despite the CA order (October 5, 1995) to observe the status quo. The question is what prevented the distribution of awards and the installation of the beneficiaries? Putting the pieces together leads to the conclusion that at this point, the DAR preferred to wait for a decision from the Office of the President. The participation of the Bukidnon LGU in the NQSRMDC struggle to retain ownership of the land was too important to be ignored by the President himself and too risky for the DAR to decide on its own.

Field personnel of the DAR themselves admit that their boldness to prosecute land transfer depends on the amount of pressure employed by farmers' organizations and NGOs. Without such, the DAR would be less confident in its clashes with other units of state. At this point, DAR seemed to recognize that the anti-reform forces were making further headway in generating alliances than the pro-reform forces.

¹⁵ On October 5, 1995, the Presiding Justice of the Court of Appeals ordered both parties to observe the status quo pending resolution of the case.

¹⁶ The author was not able to find out whether the CLOA was collective or individual. One thing problematic in the issue is the identification of beneficiaries. DEARBCI (as a cooperative of workers) attempted to claim the property. In an interview with Rennie Baula, Chair of the Agriculture Committee of the Sangguniang Panlalawigan of Bukidnon, he claimed that the DAR grossly deleted some names of legitimate claimants (former workers of the estate) from the list of claimants. And in an interview with Peter Tominhay, President of MAPALAD, he recognized that out of 81 members, only 65 were legitimate claimants of the property.

1996: Executive Intervention

By 1996, the struggle had reached a higher level catching the attention of the public through constant media exposure. In fact, media attention was the most important support that the MAPALAD campaign had generated.¹⁷ The President could not ignore questions raised by the LGU and the business community, but neither could he set aside the claims of the farmers' groups and the NGO community. However, the dynamics of the shifting political market seemed to favor the landowner rather than the farmers, as evidenced by the inter-agency support for conversion. Without waiting for the CA resolution, President Ramos approved the NQSRMDC application for conversion on March 29, 1996. (See Figure 8)

Figure 8
Sub Game: LO/LGU vs. OP

		OP	OP
Objective: Define whether LGU has the authority to convert lands Outcome: QIV (+,+) – Torres' decision upholding authority of LGU to reclassify; a <i>de facto</i> conversion of LO property to agro-industrial use	QL	(+,+) QIV	QI (+,-)
	QL	(-,+) QIII	QII (-,-)

The Office of the President upheld the authority of the Sangguniang Bayan of Sumilao (Ordinance No. 24 enacted on March 4, 1993) to reclassify land based on Section 20 of RA No. 7160 (Local Government Code).¹⁸ (See Figure 9)

Citing inconsistency with the facts of the case and applicable laws, the DAR filed a motion for reconsideration on May 20, on the grounds that: a) the land involved is agricultural, irrigated or, at least, within an irrigable area; b) subject land was already placed under the coverage of CARP; and, c) the grant of land reclassification authority to LGUs was

¹⁷ Bulatao, G., *op.cit.*, p. 4.

¹⁸ Resolution of the OP Case No. 96-C-6424 signed by Executive Secretary Ruben D. Torres by authority of President Ramos.

¹⁹ *Ibid.*

Figure 9
Sub-Game: D/M vs. OP

		D/M		D/M	
Objective: Define whether the Torres' decision is correct Outcome: OPI – OP wins by technicality; Torres' decision upheld Question: Why did the DAR fail to consider the 15-day reglamentary period?		OP	(+,+) OPIV	OPI	(+,-)
		OP	(-,+) OPIII	OPII	(-,-)

not absolute.²⁰ The motion was shelved by the Office of the President.²¹ The reason cited was that the motion was submitted almost two months after the President's decision was handed, way beyond the 15-day period for filing such motions.²²

While the motion contained positive merit, the delay in its filing caused its denial. Given its legal resources and a direct line to the Office of the President, how could it be possible for DAR to falter on a mere technicality? This weakness has been the source of a lot of conjectures regarding the actual objectives of DAR in the Sumilao case. However, no matter what the reason is, the result of this fumble was to transfer some culpability and blame towards the OP and to pave the way for the involvement of the Supreme Court. (See Figure 10)

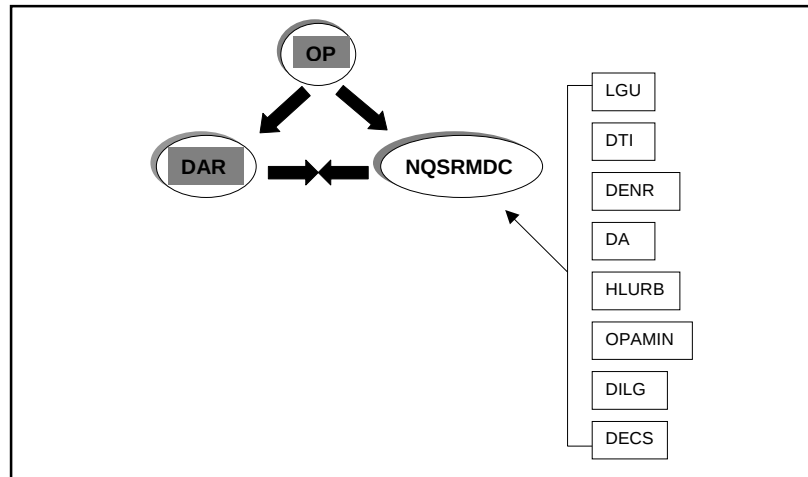
Acting on the favorable decision by the Office of the President, NQSRMDC signed a Memorandum of Agreement (MOA) with the Department of Education, Culture and Sports (DECS) on September 11, 1996, stipulating that the former would donate a 4-hectare lot to the

²⁰ Motion for Reconsideration of the OP Case No. 96-C-6424 submitted by Atty. Delfin Samson, Executive Director of Litigation, LAO, on behalf of the Department of Agrarian Reform, on May 20, 1996.

²¹ By authority of the President, Executive Secretary Ruben Torres dismissed the motion on June 23, 1997, on the ground that the pleading was filed beyond the 15-day reglamentary period. Torres explained that the DAR received the resolution of the OP Case No. 96-C-6424 on April 10, 1996. The DAR filed a Motion for Extension of Time on May 9 and the DAR Records Management Division received the Motion for Reconsideration for mailing on May 23, 1996.

²² Again, the question of logic can be raised here. Eight years into the CARP experience filled with so many legal battles, how could the DAR legal personnel overlook rules on procedures? Or bluntly, was the lapse intentional?

Figure 10
1996 Alignment of Forces



DECS for the establishment of the NORBERTO QUISUMBING SR. SCIENCE HIGH SCHOOL.

The year ended with the balance of forces swinging in favor of NQSRMDC.

1997: Renewed Tension, Executive Re-Intervention

Pending resolution of the DAR motion for reconsideration addressed to the Office of the President (on May 20, 1996), NQSRMDC took the offensive by filing a case with the Regional Trial Court in Bukidnon, against the DAR and 141 others for “Annulment and Cancellation of Title, Damages and Injunction with Prayer for Preliminary Injunction” on April 10, 1997.²³ MAPALAD, represented by counsels, promptly countered with a motion for dismissal of the NQSRMDC motion.

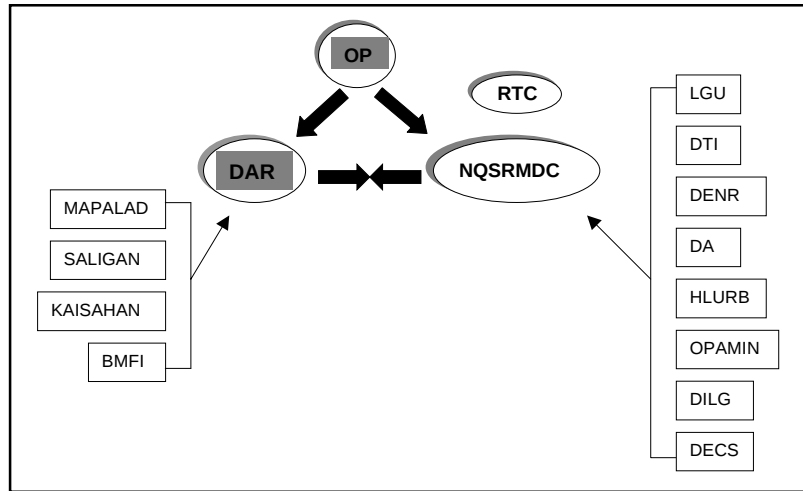
Caught in horizontal skirmishes on the ground between claimants on the one hand and the landowner on the other, as well as vertical synergy between the LGU and the Office of the President, the Regional Trial Court acted with restraint. It issued a 72-hour Temporary Restraining Order (TRO) on April 30 and a 20-day TRO on May 19.²⁴ (See Figure 11)

A month later, on June 23, Executive Secretary Ruben Torres issued a decision affirming with finality the OP stand and executing the

²³ Civil Case No. 2687-97, Regional Trial Court, Bukidnon.

²⁴ The decision was issued by RTC Presiding Judge Leonardo Demicillo (Branch 9).

Figure 11
1997 Alignment of Forces



Presidential decision of March 29, 1996.²⁵

Threedayslater, onJune27, Judge Demicillo granted NQSRMDC's application for injunction against the defendants (DAR and 141 others) prohibiting them from entering and occupying the petitioner's property. On July 11, the DAR filed a second motion for reconsideration with the Office of the President, praying to set aside the former'sJune23 decision and requesting the reinstatement of the DAR Motion for Reconsideration of May 20.²⁶ This motion was contested by NQSRMDC citing Rule 52 of the Revised Rules of Court which says that "No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained."²⁷

Almost simultaneous to the DAR's second motion for reconsideration, 90 MAPALAD farmers entered the contested property and began cultivating the land. NQSRMDC armed guards reacted by harassing the farmers - firing shots in the air, burning huts and streamers, destroying fences on farm lots and confiscating farm implements. The guards justified their actions by citing the RTC injunction of June 27. The MAPALAD farmers, on the other hand, argued on the ground that they were not notified of the injunction (they received the notice

²⁵ Dismissing the DAR Motion for Reconsideration of May 20, 1996.

²⁶ Motion signed on behalf of the DAR by Atty. Delfin Samson on June 11, 1997.

²⁷ Cited in the NQSRMDC Comment (addressed to the Office of the President) on the DAR's Second Motion for Reconsideration. The comment was submitted by Atty. Anastacio T. Muntuerto Jr., Counsel for NQSRMDC and BAIDA, on August 20, 1997.

only on July 22).²⁸

To ease the tension, a dialogue between the Sumilao Mayor, leaders of MAPALAD, the MARO, PARO, NQSRMDC, and NGO leaders was conducted on July 14. No resolution was reached. But on the same day, Judge Demicillo of the Bukidnon Regional Trial Court issued a Writ of Preliminary Injunction against the defendants (MAPALAD farmers).

The following day, NQSRMDC released 134 carabaos inside the property resulting in the destruction of shelters constructed by farmer-beneficiaries who attempted to occupy the land. To forestall more violence, another dialogue was scheduled for July 16 at the Sumilao Mayor's office. However, the dialogue was canceled. Instead, a representative of NQSRMDC went directly to the area and issued an ultimatum to the occupants citing the RTC injunction. The farmers left the area on the persuasion of the Sumilao Parish Priest.

The conduct of "illegal occupations" may be seen as a legitimate response in the face of an emergency, or in affirming rights on land denied to farmers who have the law behind them. Experience in the Philippines also show that land occupations can succeed so long as farmers' groups mount sufficient force and garner enough local support to establish *de facto* control over contested land.²⁹ In the case of MAPALAD, the occupation was not supported by the local population of Sumilao nor was it backed by other institutions and groups. The NGO allies did not participate in the occupation and even the Parish priest persuaded the farmers to leave. Moreover, NQSRMDC was never enough to allow cultivation of a portion of the estate (around 20 hectares) to some *Higaonons* belonging to the Tribal Gagao Association (TGA). The TGA was led by *Higaonons* of noble lineage as against the leadership of MAPALAD which was not recognized by the *Higaonon* tribal hierarchy. In exchange for land use and other perks (such as issuance of weapons), TGA members opposed the MAPALAD claim. Given the strength and potency of opposition forces on the ground, it could have been physically dangerous and fatal for MAPALAD members to remain inside the estate.

On the same day, Counsels of MAPALAD filed a case for certiorari with the Court of Appeals directed against the Torres decision and on July 31, members of MAPALAD staged a rally in front of the prop-

²⁸ Account made by Peter Tominhay, President of MAPALAD and confirmed by Atty. Arlene Bag-ao, Counsel for MAPALAD.

²⁹ Gathered from the author's interview with functionaries of the Peasant Bureau of the Partido do Trabalho (PT) in Sao Paulo (Brazil) in 1992. The PT supported land occupation struggles waged by the Movimento Sem Terra (MST).

erty. They served a “notice to vacate” within 15 days.³⁰ The notice, however, was not backed by organizational strength and the capacity to enforce it. The “notice to vacate” was an emotional appeal for social justice addressed to the general public. Had MAPALAD or its NGO allies been able to generate substantial support in the municipality, the “notice” would have been more effective. Instead, even the *Higaanon* tribal hierarchy cast its lot with NQSRMDC and the LGU; and crucial support from groups such as public school teachers in Barangay San Vicente (where MAPALAD members reside) did not materialize. In some instances, teacher even tried to discriminate against the children of MAPALAD members.

MAPALAD’s order to vacate was a feeble attempt to portray strength in its absence. Failing to enforce its “notice to vacate”, MAPALAD reverted to the legal mode. On August 7, 1997-MAPALAD, through counsels, petitioned the Court of Appeals to (a) prohibit Judge Demicillo from further trying the case; (b) lift the writ of preliminary injunction issued by Judge Demicillo; (c) let them enter and occupy the property peacefully.

The struggle became more complex by 1997. Battlefronts shifted from the DAR in 1990-1992, LGU in 1993-94, DAR in 1995, Office of the President in 1996 and the judiciary in 1997. MAPALAD was a silent player in 1995 when the DAR issued CLOA 00240227 (registered as TCT No. AT-3536 in the Register of Deeds) citing the farmers as beneficiaries. NGO advocates joined the contest in 1996 when the Torres decision was issued. In 1997, legal and paralegal assistance from NGOs like the *Sentro ng Alternatibong Lingap Panligal* (SALIGAN), *Kaisahan Tungo sa Kaunlaran ng Kanayunan* (KAISAHAN) and Balay Mindanaw Foundation were harnessed to support the MAPALAD claim. The three NGOs fielded 9 lawyers.³¹

The NGOs also brought the matter up with DAR Secretary Garilao who, in turn, sent his Policy and Planning Undersecretary, Artemio Adasa, to talk to Quisumbing and the farmers on September 12.³² Failing to get the expected result, 30 representatives of MAPALAD enplaned to Manila.³³

On October 9, 18 representatives staged a simultaneous hunger strike in Cagayan de Oro City (at the Golden Friendship Park, in front of Xavier University) and Quezon City (in front of the DAR Central

³⁰ Merely a protest slogan printed on streamers.

³¹ Namely, Attys. Arlene Bag-ao, Corazon Gaite-Llenderal, Godofredo Linaac, Roberto Gana, Vincent Edward Fesin, Maribel Arias, Normita Batula, Magistrado Mendoza Jr. and Marilevi Lim.

³² Villarin, T.S., *op.cit.*, p.5.

³³ *Ibid.*

Office). Street action was combined with legal moves addressed to the Office of the President. The protest campaign was led by Task Force MAPALAD³⁴ with Balay Mindanaw Foundation (BMFI) at the core.³⁵ BMFI was also assisted by the KANIB Foundation, a PhilDHRRA affiliate and the *Pambansang Kilusan ng Samahang Magsasaka* (PAKISAMA), a national peasant federation of which MAPALAD is a member.

At the national level, MAPALAD was joined by KAISAHAN and SALIGAN. *Akbayan* or the Citizen's Action Party was also counted as a supporter due to its 1995 support for some MAPALAD members who ran for local seats in the 1995 barangay elections.³⁶ At the height of the hunger strike, NGO support was backstopped by an even bigger coalition, the AR Now. At this point, campaign leadership was disaggregated - AR Now handling day-to-day operations and the core NGOs (BMFI, SALIGAN and KAISAHAN) responsible for strategizing and legal aspects. The legal strategy was formulated by SALIGAN lawyers led by Atty. Arlene Bag-ao in consultation with MAPALAD leaders.

During the hunger strike at Quezon City, protesters and allies carried the names of five farmers organizations: Mapalad Multi-Purpose Cooperative, *Samahang Magsasaka ng 53 Ektarya*, Sumalo Homeowners Association, Sto. Nino and Lanlangan Farmer's Association and PLUM Federation of Industrial Workers and Agrarian Workers.

The campaign was launched in two stages. From October 9 to 15, a scheduled hunger strike was initiated, leading to an indefinite hunger strike from October 15 onwards. The campaign dubbed as "MAPALAD PLUS" was aimed at generating wide support by other farmers' groups and NGOs. It went beyond the MAPALAD case and carried other land issues such as the 450-hectare Golden Country Farm property in Mindoro Oriental, the 213-hectare property of James Litton in Hermosa, Bataan; the 189-hectare property of the Heirs of Emilio Aguinaldo in Silang, Cavite; the 120-hectare property of Winner Real Estate Development Corp. in Plaridel, Bulacan; the 53-hectare property of Wilfredo Mosquera in Rodriguez, Rizal; and, the 1,219-hectare MSDC property developed by Fil-Estate in Nasugbu, Batangas.

Public support snowballed to include the Association of Major Religious Superiors of the Philippines (AMRSP) which provided financial and moral support (through nightly vigils). The inclusion of other land conversion cases also instigated spontaneous coalitions like *Sagip-Saka*, *Sagip-Buhay* composed of the Philippine Peasant Institute (PPI),

³⁴ Dubbed "Task Force MAPALAD PLUS+" in a flyer.

³⁵ Villarin, S.T., *op.cit.* p.6.

³⁶ *Ibid.*

KAISAHAN, SALIGAN, Center for Agrarian Reform Empowerment and Transformation (CARET), Philippine Rural Reconstruction Movement (PRRM), Philippine Partnership for Agrarian Reform and Rural Development Services (PARRDS), PAKISAMA and PhilNET.³⁷ However, this coalition was not woven into the campaign leadership of MAPALAD.

AR Now, on the other hand, was burdened by a top-heavy leadership (composed of 10 people led by former DAR Undersecretary for Operations Butch Olano) handling day-to-day leadership³⁸ while strategizing was left to the lawyers under the leadership of BMFI. Charlito Manlupig (Executive Director of BMFI) and Butch Olano coordinated the campaign by phone.³⁹ On the other hand, Atty. Arlene Bag-ao, chief legal counsel on the scene and in-charge of strategizing was not under the command structure of AR Now.⁴⁰

While the media may have contributed to transforming the MAPALAD issue into a national campaign, media sentiment was not homogenous. At one point, the MAPALAD hunger strikers were even lampooned for being “protesters for hire.”⁴¹ However, media attention (print, broadcast and radio) enabled the transformation of MAPALAD into an important issue for national debate.⁴²

The expected sustained broad support by other farmers' groups and ARRD⁴³ NGOs did not materialize due to other underlying conditions reflective of the schism between political and ideological formations.⁴⁴ Except for the participation of the *Samahang 53 Ektarya* of Rodriguez, the other issues covered did not instigate the participation of concerned claimants although their NGO allies banded together in a tactical alliance. They, however, did not integrate themselves into the campaign command of MAPALAD.

³⁷*Ibid.*, p.8.

³⁸*Ibid.*

³⁹*Ibid.*

⁴⁰*Ibid.*

⁴¹*Ibid.*

⁴²*Op. cit.* p.4.

⁴³A common term that refers to all NGOs and POs involved in agrarian reform and rural development.

⁴⁴The ideological enmity between social democrats (SDs) and national democrats (NDs) is historical. It runs through other formations or institutions organized by or influenced by these ideological groups. The MAPALAD allies are known to be aligned with the SDs. Other ARRD NGOs are run by people who used to be aligned with or are still sympathetic to the NDs. While it may not be farfetched to have UMALPAS-KA and MAPALAD together in front of the DAR to highlight their plight in regard to land claims, it would be illusory to think that their ideological aims and political lines will merge strategically. Neither would their NGO allies be forthcoming to come under a central command without a contest for control.

MAPALAD was able to generate support for its legal battle. It received advice and assistance from lawyers of Balay Mindanao Foundation, Kaisahan and SALIGAN (9 lawyers) as well as the law office of Senator Aquilino Pimentel.⁴⁵ Earlier, in September, represented by counsels, it presented itself as an intervenor in OP Case No. 96-C-6424, supporting the DAR Motion for Reconsideration.⁴⁶ The Memorandum of Intervention addressed to the Office of the President argued on the following basis:⁴⁷

- ♣ The order of the Office of the President denying the DAR's Motion for intervention is null and void for want of jurisdiction; intervenors have vested rights as title holders and are thus indispensable parties in the instant case;
- ♣ Order of the Office of the President dismissing the DAR's Motion for Reconsideration is null and void for being in violation of due process;
- ♣ The decision of the Office of the President allowing conversion is erroneous for being contrary to law, public policy and the evidence presented; the decision stating that LGU's have the power to convert agricultural lands is contrary to law;⁴⁸
- ♣ The questioned decision is erroneous in not considering the fact that the subject agricultural land had already been distributed under the CARP and,
- ♣ The decision of the Office of the President is erroneous for having approved the conversion of a prime agricultural and irrigated land into industrial use.

Less than a month later, the above motion was seconded with a

⁴⁵ Bulatao, G., *op. cit.*, p. 4.

⁴⁶ The Memorandum in Intervention was submitted by the aforementioned nine lawyers on behalf of 113 farmer-beneficiaries who are residents of San Vicente, Sumilao, Bukidnon.

⁴⁷ Submitted on September 30, 1997.

⁴⁸ Counsels argued that beneficiaries as parties to the proceedings have the right to present their case, submit evidence thereof and know the various issues surrounding the decision rendered.

⁴⁹ Section 20 of RA 7160 (Local Government Code) states that the LGU has the authority to reclassify lands through an ordinance passed by the local legislature; that such reclassification is limited to 15% in highly urbanized and independent component cities, 10% for component cities and 1st to 3rd class municipalities and 5% for 4th to 6th class municipalities.

Motion to Inhibit/Disqualify⁵⁰ Presidential Executive Secretary Torres.⁵¹

The mass action, especially the hunger strike, started to catch public attention and sympathy in the period preceding the 1998 elections. In Cagayan de Oro City, the City Council approved a resolution asking President Ramos to resolve the Sumilao issue.⁵² Earlier, on September 1, 1997, at the House of Representatives, Congressman Leonardo Montemayor filed Resolution No. 1358 directing the House Committee on Agrarian Reform to conduct an inquiry, in aid of legislation, into the reversal (by the Office of the President) of the DAR decision.⁵³

On October 23, 1997, two lawyers of the Ateneo de Manila University - Fr. Joaquin Bernas, SJ and Atty. Cynthia del Castillo - and Director for Legal Aid of the Integrated Bar of the Philippines, Atty. Julian Nacino, released their findings and recommendations in favor of MAPALAD.⁵⁴ They raised five major points:⁵⁵

1. Equitable distribution of wealth as a prime goal of economic policy under Article XII of the Constitution;
2. Primacy of agrarian reform in national development objectives;
3. The imperative to pass the Land Use Act Protective of Prime Agricultural and other Vital Lands;
4. Participation of farmer-beneficiaries in processes affecting them; and,
5. Principle of social justice in the Constitution - those who have less in life should have more in law.

NQSRMDC, on the other hand, undertook counter action by gaining the support of the DILG. Ramon Quisumbing Jr., counsel for the

⁵⁰ Motion submitted by the same nine counsels of MAPALAD on October 20, 1997.

⁵¹ Torres became a focal point of contempt by agrarian reform advocates and was shaped by the media as anti-farmer and pro-landowner. He was mocked by the media as evidenced by news accounts in the Philippine Daily Inquirer (October 18, 1997), Manila Times (October 18, 1997), Isyu (October 16, 1997), Pinoy (October 16) and Manila Standard (October 16, 1997). Even as he acted by authority of President Ramos, Torres lost his bid as a Senatorial candidate under the LAKAS Party in 1998.

⁵² The City Council Resolution No. 3821-97 signed by City Vice Mayor John Elizaga on October 13, 1997 was in sympathy to the hunger strike launched by MAPALAD in Cagayan de Oro City.

⁵³ House Resolution No. 1358 filed on September 1, 1997 during the Second Regular Session of the Tenth Congress.

⁵⁴ Joaquin Bernas, S.J., Atty. Cynthia del Castillo, Atty. Julian Nacino, "Findings and Recommendations," October 28, 1997.

⁵⁵ Excerpted from the original, *ibid*.

landowner, wrote the new DILG Secretary Alexander Aguirre a position paper arguing on the merits of the reclassification of the property and questioning the legitimacy of the MAPALAD hunger strikers.⁵⁵ It cited Bernabe Ligmon, one of the protesters at Quezon City, as owner of a 10-hectare farm in Barangay San Vicente, Sumilao.⁵⁷ The MAPALAD “crying lady” Linda Ligmon was also cited as a fake beneficiary.⁵⁸ The landowners claimed that her husband was the alleged administrator of the Bernabe Ligmon property.⁵⁹

The Quisumbings also criticized the Jesuit supporters of MAPALAD citing the non-coverage of CARP of the Jesuit owned Xavier University (XU) property in Sumilao, Talakag and Maramag.⁶⁰ However, MAPALAD argued that XU owned only 53 hectares in Sumilao (already distributed) and 60 hectares in Maramag and Talakag. In the latter, XU is asking for exemption for the purpose of establishing socialized housing units.⁶¹

To further convince the DILG to support the NQSRMDC case, Atty. Quisumbing cited the landowner’s previous contributions to CARP, namely, 176 hectares in Nueva Ecija, 40 hectares in Bulacan and 466 hectares in Impasug-ong.⁶² He alleged that while the Nueva Ecija property was paid for, the landowner has not been compensated yet for the DAR acquisition of the Bulacan and Impasug-ong properties.

Election time in the Philippines always provides a good opportunity for some emotional blackmail. With the bad publicity generated by the Torres decision, President Ramos was obliged to modify his previous position. Weighing the consequences of his impending action, the President sought to offer a compromise settlement but without precedence in the history of CARP and property rights jurisprudence, i.e. segregating contested property to appease both landowner and farmer-claimants. By undertaking this move, the state was striking a balance between the need for political legitimacy (by siding with the poor land claimants) and its responsibility to uphold the law (Local Government Code).

⁵⁵ Position Paper submitted by Ramon Quisumbing Jr., counsel for NQSRMDC, to DILG Secretary Alexander Aguirre on October 23, 1997.

⁵⁷ Atty. Quisumbing cited Real Property Tax Declaration No. 3032 in favor of Ligmon as evidence.

⁵⁸ Villarín, T. S., *op. cit.*, p. 7.

⁵⁹ *Ibid.* Atty. Quisumbing also identified another protester-claimant, Rosito Lesion, as owner of a 2-hectare farm in the same barangay as evidenced by Tax Declaration No. 3028.

⁶⁰ Cited in “Refutations of Quisumbing’s Arguments by the MAPALAD Farmers,” a press briefing kit.

⁶¹ The application is pending with the DAR Regional Office.

On November 7, 1997, President Ramos issued his “win-win” formula - offering 100 hectares to MAPALAD, while retaining 44 hectares for the landowner. MAPALAD and its allies promptly declared a victory. But lacking acceptance from the landowner and the LGU, the decision did not put an end to the case. While beneficiaries and NGO supporters welcomed the decision, the landowner and the LGU took counter-action. Governor Carlos Fortich took the first move by filing a Petition for Certiorari with the Supreme Court on November 12, just five days after the issuance of the Presidential decision. The struggle was not over yet. (See Figure 12)

Meanwhile, acting on the same Presidential decision, DAR Undersecretary Gerry Bulatao directed the BLD-DARCO to conduct a segregation survey of the property on November 13, 1997.⁶³ He also mandated the DAR Regional and Provincial Offices to expedite the segregation survey and facilitate the acquisition proceedings. Likewise, he mandated the DAR Provincial Office to conduct investigation on the qualification of the FBs, directed the Land Bank to value the property upon receipt of the claim folder and authorized the PARO to cause the correction or amendment of the CLOA.

The LGU and landowner, on the other hand, took concerted action directed towards the Supreme Court. Governor Carlos Fortich, Mayor Rey Baula and NQSRMDC filed a joint Petition for Certiorari on

Figure 12
Extension Game - Legitimation: OP vs. DAR, Mapalad and NGO Allies

		D/M		D/M	
Objective: Pressure the OP to use the coercive power of the State Outcome: OPII – “Win-win” resolution superficial; legally untenable	OP	(+,+)	OPIV	OPI	(+,-)
	OP	(-,+)	OPIII	OPII	(-,-)

⁶² MAPALAD farmers disputed the Quisumbing claim arguing that only 233 hectares were covered by CARP in Impasug-ong. Of the total, 184 hectares was paid for by the LBP in 1993 but that the landowner rejected the valuation; 49 hectares was covered by a direct payment scheme of which 19 hectares are still with the PARO for the generation of the CLOA, *ibid.*

November 24, 1997 arguing that the “win-win” resolution disregards the local government’s prerogative involving reclassification of land.

The petition named Deputy Executive Secretary Renato Corona and DAR Secretary Ernesto Garilao as respondents. Corona was named because, in lieu of Executive Secretary Torres, he penned President Ramos’ “win-win” resolution. The petitioners argued that the formula is violative of the constitutional policy on local autonomy, it voided the fundamental principle of separation of powers, that an executive fiat, in this case, Administrative Order No. 20, Series of 1992 and Memorandum Circular No. 54 cannot amend or restrict the exercise by the LGU of its power to reclassify agricultural land; that the decision is confiscatory and violative of the due process clause.

The petitioners pleaded for peaceful possession of the 144-hectare property in full based on previous reclassification by the LGU and the alleged violation by the DAR to segregate 100 hectares. They asked to reinstate the March 29, 1996 decision of President Ramos which upheld the exercise of the LGU. (See Figure 13)

1998-1999: The High Court Speaks

The elevation of the issue to the Supreme Court brought a new dilemma to MAPALAD and its NGO allies. Symbiosis between state reformists within DAR and social movements aligned with MAPALAD may be an effective strategy in pressuring the state to act in favor of political legitimation. However, it requires more strength and a wider set of alliances for the state reformists and social movements to subdue other currents within the state that concurrently reinforces the institutional framework of private property rights. Executive intervention through the win-win formula was not legally flawless.

The Supreme Court announced its decision on April 24, 1998. In a unanimous vote of the Court’s Second Division, the “win-win” resolution decreed by President Ramos was nullified. In fact, the court upheld the LGU prerogative to reclassify or convert lands in its territory under applicable provisions of the Local Government Code.

As a response, MAPALAD and members of Task Force MAPALAD (NGOs and individuals) launched a series of protest actions from May to August. These were combined with legal petitions by MAPALAD and the DAR addressed to the Supreme Court. But the

⁶³ Cited in the Petition for Certiorari submitted to the Supreme Court by Gov. Fortich, Mayor Rey Baula and NQSRMDC on November 27, 1997.

⁶⁴ *ibid.*

Figure 13
Game Shift - The Defining Game: LO/LGU vs. the Supreme Court

		SC		SC	
Q	Q	(+,+)	QIV	QI	(+,-)
		(-,+)	QIII	QII	(-,-)

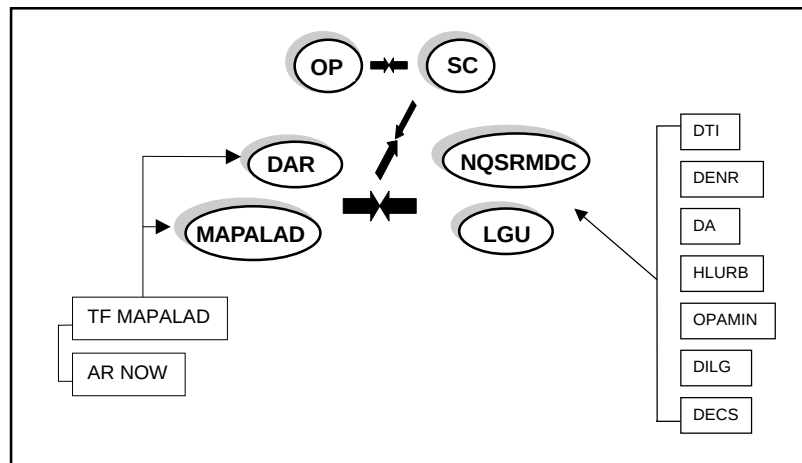
Objective:

- 1) Define whether the LGU has the authority to reclassify land
- 2) Nullify the "win-win" resolution

Outcome:
 QIV (+,+) – SC nullifies "win-win" resolution; upholds LGU authority to reclassify land

court was undaunted. On November 17, 1998, its Second Division reaffirmed its April 24 decision. The four associate justices who heard the case were split in a 2-2 vote but a resolution penned by Justice Antonio Martinez resolved that "as the necessary vote of three members cannot be obtained, the motions for reconsideration are deemed denied and the decision of April 24th is affirmed."⁶⁵ (See Figure 14)

Figure 14
1998 Alignment of Forces



⁶⁵ Lina Sagara Reyes, "Sumilao farmers still cling to hope," *Philippine Daily Inquirer*, December 2, 1998.

Although a reaffirmation of the original decision, the 2-2 split vote offered a glimmer of hope for MAPALAD. MAPALAD's lawyers argued that the split vote should have led to a hearing *en banc*. The question is whether the Supreme Court, sitting *en banc*, shall reverse itself on a decision that has been heard twice and reaffirmed by its Second Division. MAPALAD allies treated the case as a legal impasse and tried to generate one million signatures to strengthen its pressure on the Court.⁶⁵

In 1999, the Supreme Court decided, with finality, to junk the petition of the farmers to uphold the win-win formula. This decision, rendered with an announcement by the Court that it will no longer entertain any new motions for reconsideration, spells the total defeat of the MAPALAD farmers in their fight for the Quisumbing property in Sumilao.

⁶⁵ *Op. cit.* p. 6.

POSTSCRIPT : Learning from Defeat

Fox (1992) points to two foundations of state rule: private capital accumulation and political legitimization.⁶⁷ President Ramos' "win-win" formula addressed the issue of legitimization but it also threatened private capital. How did the OP hope to reconcile both objectives? The answer seems to be that it did not have to, at least not during its watch. On the eve of a Presidential election and in the presence of single term limits, Presidential decisions acquire a lameduck character. This raises questions as to the wisdom behind MAPALAD's move to fold up its banners and succumb to Presidential promises.

Sure enough, the state through the Supreme Court re-emphasized the strength of existing jurisprudence. The Court was not concerned with whether the Quisumbing property was eligible for coverage under CARP or not. The issue addressed by the Supreme Court was whether the LGU had the authority to reclassify lands in its territory. Pro-reform forces contend that LGU authority should not take precedence over DAR's authority to implement agrarian reform. But the Court decided otherwise and MAPALAD and its NGO allies were incapable of convincing the Justices to listen and decide on the merits of the land claim.

When principles of social justice and rule of law are pitted against each other, society weighs one against the other according to varied, and often conflicting perspectives. Should redistribution be postponed to spur accumulation? Do decentralization and devolution contribute more to eradicating poverty? Agrarian reform is only one among various responses to historically-rooted inequity in land endowments that have bred poverty and dissidence among landless farmers and farm workers. Others would argue that strengthening local government services in direct poverty targeting is more effective. And though it can complement local government initiatives, agrarian reform often comes into conflict with it.

The passage of RA No. 7160 (Local Government Code) in 1991 was lauded by democratic civil society because of opportunities for

⁶⁷ *Ibid.*, p. 10.

people's participation in local governance. The code provides for the decentralization of the previously centralized state provision of goods and services to the poor. The autonomy of local governments is strengthened through the devolution of functions of national line agencies, and democratization is enlarged through provisions for civil society participation in decision making of local specialized bodies.

Even NGO supporters of MAPALAD like PHILDHRA, SALIGAN, KAISAHAN and Balay Mindanaw Foundation have designed advocacy and training programs premised on the enhancement of the Local Government Code.⁶⁸ Even if the autonomy of local governments continues to be built upon traditional power blocs and elites that control land and possess huge amounts of private capital. And even though the institutional framework of agrarian reform contrasts with the institutional design of local governance. What is clear is that support for local government strengthening arises from increasing civil society demands for state accountability.

Local governance strengthens local property rights — yet agrarian reform challenges these rights by interposing a set of property rights designed from above. The Bukidnon LGU stands from the perspective of provincial economic development, i.e. pushing for agro-industrialization through outside investments. The DAR and NGO supporters of MAPALAD, on the other hand, stands for the fulfilment of land redistribution under CARP and the fulfilment of the social justice provision of the Constitution. The LGU laments the derailment of its economic vision by DAR opposition to its Bukidnon Industrial Grid (BIG) program and the subsequent immobilization of productive lands due to the long transition in the transfer of ownership.⁶⁹ What the DAR and NGO community see as redistributive justice is perceived by the LGU as a diminution of provincial revenues and deterrence to investments in agriculture.⁷⁰

NQSRMDC and its allies converge on the concept of agro-industrial development premised on the non-disruption of free access to land markets and the promotion and maintenance of economies of scale. They see similarities between the tripartite approach and the agrarian revolution implemented by leftist insurgents during the first half of the

⁶⁸ Like the Ford-funded People Participation in Local Governance (PPLG) Program implemented by PAKISAMA in cooperation with SALIGAN.

⁶⁹ Interview with Remme Baula, Chairman of the Committee on Agriculture of the Sangguniang Panlalawigan (Provincial Board) and former Mayor of Impasug-ong.

⁷⁰ Mr. Baula refers to the non-bankability of redistributed lands while under temporary ownership (CLOA) and tax exemptions of CARP institutions like cooperatives. He also claims that foreign funding for agrarian reform are channeled through NGOs without giving a share to the LGU.

80's citing drastic reduction in productivity and unjust expropriation of property.⁷¹ Landlords and the LGU fear the institutional elimination of land ownership without ceilings, the likelihood of below-market rate compensation for their land, and the consequent severance of the symbiosis between landlordism and local governance.

The Bukidnon LGU position is shaped by the historic nexus between land ownership and political power; large land ownership having been the usual path to political power. From the LGU perspective, the connection between landowners and big capital from the outside is the hope of the province. Only a few landlord-politicians like Ernesto Tabios, a former governor, attempted to work with civil society groups in pushing for reforms. In fact, the initial tripartite activities pushed by PHILDHERRA and the DAR beginning 1989 was supported by the LGU because of the reformist stance of Ernest Tabios, then governor of the province.

The Tripartite and *Bibinka* Framework

The Tripartite Partnership for Agrarian Reform and Rural Development (TRIPARRD) Strategy employed in Bukidnon from 1989 to 1997 is the closest attributable advocacy framework in the MAPALAD struggle given the configuration of its NGO allies. However, MAPALAD itself did not articulate this strategy; neither did the NGO allies throughout the conduct of the struggle. What dominates the scene is the recourse to a legal and peaceful struggle prosecuted through the courts, and closely monitored and supported by a social movement. At its peak, legal moves in court were combined with mass actions highlighted by a hunger strike launched in October 1997. The latter was aimed at gaining national attention and pressuring the state to make a decision in favor of MAPALAD.

TRIPARRD works on the assumption of equal partnership and the possibility of a convergence of interests between the PO, NGO and GO partners.⁷² But this was hardly the case in Sumilao nor in the Bukidnon TRIPARRD experience from 1989 to 1997. The reference points suggested by the TRIPARRD strategy do not seem to match the actual chain of events. The Sumilao strategy more closely approximates

⁷¹ Around the first half of the 80's, the CPP-NPA in Bukidnon launched a campaign to eliminate usury and other forms of informal credit which they deemed usurious, experimented communal farming on lands abandoned by small landlords, imposed taxes on rice millers, traders, transport operators and small loggers.

⁷² See Jocelyn Cajuat, *Tripartite Strategies in Agrarian Reform: Perspectives and Directions*, 2000.

the *bibingka* strategy since it proposes the same symbiotic relationship between state reformists and pro-reform social groups.⁷³

However, it must be noted that while the concept usefully describes the interplay between state reformists and pro-reform social forces, the strategy does not account for how this process emerges. Institutional theory illuminates the effectiveness of the *bibingka* strategy as being anchored upon structural and procedural connivance. It is anchored on the attainment of purpose - for 'government to do things, not just decide on things' (Putnam, 1993; 8-9). The strategy works well when applied from the start of the agrarian reform process, i.e. getting far ahead of the game interactively and catching the opposition by surprise.

The TRIPARRD strategy, on the other hand, is supposed to be built upon the triangular convergence of PO, NGO and GO interests into a partnership for an effective implementation of land reform. The problem with tripartism as implemented by its proponents is that it neither describes nor explains the interplay and how it emerges. In fact, the TRIPARRD strategy does not provide for a triangular partnership in any genuine sense. PO's are often created and supported by their NGO backers and most did not evolve autonomously from their patrons. On the other hand, GO cooperation with NGO's are not based upon any grand design or strategy such as tripartism.

However, the Tripartite Strategy received the backing of reformists within DAR (who came from the same NGO's involved in tripartism) and foreign donors, evolving into a concrete structure with clearly-defined procedural arrangements as evidenced by the setting-up of Provincial CARP Implementing Teams (PCIT) and Municipal CARP Implementing Teams (MCIT) in the pilot provinces and municipalities. The institutional design, however, fell short of changing the way things work between state and society, and effectively excluded an important agent in rural change—the local government units. TRIPARRD successes were largely attributable to the interface of farmers' organizations and NGO allies which, in turn, exerted pressure on the DAR to act.

TRIPARRD failed on two counts. First, the expectations it promoted of land tenure improvement being advanced was based on enormous confidence in the capacity of the state to manage reform. This is not backed by the empirical evidence in terms of the amount of land transferred. Second, the strategy discounted the role of agribusiness in

⁷³ S. Borra, Jr., *The Bibingka Strategy in Land Reform Implementation* (Quezon City: Institute for Popular Democracy, 1998), p. 22.

agrarian reform.⁷⁴ It actually fostered a closed set of allies, which made it difficult to broaden the social capital required for the decisive legal battles. Weak social capital formation in Sumilao explains the shortlived occupation by MAPALAD of the NQSRMDC estate in 1997; a weakness that led the state to ignore the justice and reform issue.

LGU opposition was dormant during TRIPARRD because the program focused on non-contentious and 'easy targets'.⁷⁵ This period of dormancy would have been the environment where the contending players could seek points of convergence. The concentration on easy targets probably led the NGO community to rely on partnership with the DAR and the PO. It shelved the idea of dealing with the LGU thinking that contentious issues and landholdings subjected to redistribution could be resolved by addressing advocacy agendas to the higher offices of the DAR; a position probably borne out of the LGU's (after the term of Governor Tabios) outright rejection of tripartite mechanisms in TRIPARRD areas.

Neither convergence nor compromise between liberals and conservatives occurred in the Sumilao case. This was partly conditioned by the waning of dissidence and insurgency in the province, thus eliminating a common threat to which liberals and conservatives could have banded together. The NGO and PO's anti-LGU and anti-landlord stance could have been taken advantage of by leftist insurgents through the use of armed force were they operative in the province. However, the CPP and NPA led insurgency in the province was active only between 1979 and 1985. A purge in the second half of the eighties and the split within the local communist movement decimated the ranks of the insurgent movement in the province.

Nuances in Strategy

The alliance strategy of pro-reform forces suffered fatal flaws in operationalization and adaptation to the non-steady state of the playing field. On the operational side, state reformists and pro-reform social groups acted autonomously and independently. State reformists down the ladder of DAR shifted sides in various stages of the game, thus weakening the integrity of the symbiosis. MAPALAD, on the other

⁷⁴ Putzel, *op. cit.*, p. 15. Putzel argues that the liberal approach gives enormous confidence in the capacity of the state to manage reform and fails to account for the role of agribusiness in the issue.

⁷⁵ Gathered from the author's interview with PO leaders and community organizers involved in TRIPARRD.

hand, was dependent on its allies thus losing control of the game especially when the issue was raised to the policy level, leaving the acquisition and redistribution of the NQSRMDC property a mere instrument for higher policy objectives. The NGO allies took command of the campaign while the erstwhile central players became the weapons.

On the playing field, MAPALAD and its NGO allies overlooked the heterogeneous nature of the state's positioning on social justice. In fact, heterogeneity in terms of CARP implementation was the rule rather than the exception. The LGU emerged as a player exerting pressure on the DAR, MAPALAD, the Chief Executive and the Supreme Court. NQSRMDC used its alliance to strengthen institutional support from other branches of government (DILG, OPAMIN, DENR, DA, DTI) as well as develop social capital with the Sumilao Higanon tribal leaders to whom *Higaonon* members of MAPALAD were supposed to be socially and culturally identified and integrated in an ethnic social hierarchy.

There were conditions in the past and stages of the contest when MAPALAD and its NGO allies could have utilized a different strategy. During TRIPARRD, Quisumbing gave up his other 100-hectare property to the PO in Impalutao (Impasug-ong) through a VOS scheme where the land was valued at PhP 25,000 per hectare.⁷⁶ This can be seen as "room for maneuver" or for direct negotiations with the landowner on a win-win solution.

Direct negotiations with Quisumbing on compensation could have been undertaken in 1994 when the DAR re-activated acquisition proceedings, opened a Trust Account with the Land Bank in favor of Quisumbing and registered the CLOA (in favor of the MAPALAD farmers) with the Register of Deeds. According to the LGU, Quisumbing bargained for a PhP 35,000 per hectare valuation against the offer of PhP 16,587 per hectare.⁷⁷ This was at a time when Quisumbing was still waiting for full payment of the Impalutao property. But DAR and the NGOs and the PO maintained an almost confiscatory approach by offering compensation at way below market rates for the landlord and discounting the role of agribusiness in agrarian reform.⁷⁸

⁷⁶ Interview with Elena Paladin, Member of the BOD, Quisumbing United Agrarian Reform Beneficiaries Association (QUARBA).

⁷⁷ Interview with Remme Baula, *op.cit.*; according to Ariel Hernandez of Balay Mindanao Foundation, the NGO-PO offer was PhP 2 million for the 144-hectare property.

⁷⁸ According to the LGU, the MAPALAD farmers and its supporters did not show interest in the agro-industrial development concept of the LGU and the landlords.

The question is whether there was room for NQSRMDC and MAPALAD to strike a contract? It is possible if the pro-reform group would consider a market-sensitized repayment that included direct contributions from the PO from the start. NGO allies could help advance a new advocacy front focused on financial arrangements utilizing beneficiary contributions matched by the Land Bank and other donors such as the Catholic Church. The anti-reform forces may also be given the option to retain portions of the property for development purposes - a compromise that the farmers were willing to accept when Malacanang brokered the agreement.

In the absence of direct engagement, Quisumbing sought LGU intervention which the latter readily gave to push for its long standing drive to develop agro-industrial areas and instigate investments. Subsequently, the positions of both sides became rigid. The NGO community raised the issue to the national arena (direct lobby with the DAR and the Chief Executive, hunger strike, mass media) and Quisumbing sought protection from the LGU.

The NGOs and POs relied too much on its alliance with the DAR despite lessons in the past. During TRIPARRD, it was already known that the DAR concept of LTI accomplishment was the issuance of the CLOA (and registration of the same with the Register of Deeds). In 1991, when MAPALAD was still called by its old name - PAGLAUM - the DAR already recognized the PO as beneficiary of the 47-hectare Carlos Estate (adjacent to the Quisumbing Estate).

In 1997, the DAR awarded 19 hectares of the Estate to PAGLAUM but never processed the papers nor did it conduct negotiations with the owner regarding valuation of the property.⁷⁹ Neither did the PO push for fulfillment of the DAR commitment. In full view of all interested parties, the landlord planted mangoes, gradually built proof and established a *de facto* commercial farm. How the owner did it still perplexes many observers. Even the LGU wonders how the PO could have allowed the landowner to convert the land into a commercial farm without an iota of protest. The Carlos Estate could have been an easy target with sharper legal grounds and the landowner could not have mounted a force that would approximate NQSRMDC strength in terms of alliance with the LGU and institutional support by other branches of government.

Despite the exhortation of its supporters, the MAPALAD struggle

⁷⁹ Interview with Peter Tominhay, President, MAPALAD farmers.

is not a make or break struggle for agrarian reform. It was definitely a costly engagement for both parties in the dispute, and for the state and the local government unit. To recoup on those losses, it is important to see agrarian reform as an ongoing battle.

Shifting Terrain in Agrarian Reform

The argument that the symbiosis of state reformists and pro-reform social organizations (and their allies) can overcome the alliance of anti-reform forces inadequately explains the complexity and breadth of the Sumilao land reform issue. Initially waged from within the parameters of CARP (specifically land acquisition), the political shifts of the Sumilao struggle resulted in sub-struggles and extended struggles which eventually became the defining battles over which the alliance of pro-reform forces struggled to adapt. In fact, just as soon as the reform forces began to act within the parameters of CARP, anti-reform forces (landowner and LGU) shifted the struggle to another plane. The 'fire-from below' and 'fire from above' *bibingka* forces were overwhelmed by the "fire" stoked from a bigger oven by opposition forces.

The asymmetry between the pro-reform forces and anti-reform forces in terms of abilities, perceptions, resources and institutional support shifted the struggle to a larger terrain which reformists were ill-equipped to traverse in several stages of each struggle. This situation is strengthened by the constellation of forces at each level of the state bureaucracy, leading to actions which are not single, homogenous responses to the issue.⁸⁰ The suggested results of a *bibingka* strategy did not occur in Sumilao not because of the inability of the state reformists and pro-reform social forces to overcome opposition but because the terms and the shape of the struggle were constantly manipulated by anti-reform forces. Neither was it a simple game played out in a single engagement and much less was it free from the interjections of a disaggregated state where various units have diverse histories of their own, with differing degrees of *esprit de corps*, purposefulness and insularity.⁸¹

The Sumilao struggle should be seen as a complex struggle, or in the language of game theory, an "extended game" with the involvement of other units of state plus other players impacting on the symbiosis of the state reformists within DAR (mainly Central Office) and pro-reform

⁸⁰ J.S. Migdal, A. Kohli, and V. Shue (editors), *State Power and Social Forces: Domination and Transformation in the Third World* (New York: Cambridge University Press, 1994), p. 17.

⁸¹ *Ibid.*

social forces (mainly MAPALAD and its NGO allies). Reformists within the DAR shifted their alliances in response to the changing rules and rewards of the contest. At the local level, the MARO, PARO and the Regional DAR shifted positions at several stages of the struggle. Even the leader of the pro-reform NGO allies of MAPALAD, Balay Mindanaw Foundation⁸² Executive Director Charlito Manlupig, was placed in an awkward position when he was the OIC Regional Director of DAR Regional Office 10. In order to deflect pressure and shift the legal battle to the DAR central office, he issued a conditional endorsement of the NQSRMDC petition for land conversion.⁸³

The MAPALAD group was a victim of its own strategy and the overwhelming force of anti-reform. It relied on the legal battle within the parameters of CARP on the assumption that the latter was the central arena for waging the struggle for land. While the campaign initially centered on a decision game using the *bibingka* strategy, MAPALAD's NGO allies brought the game to wider advocacy arena raising broad policy issues banking on the public attention given to the MAPALAD struggle: Agrarian Reform Fund augmentation bill, moratorium on land conversion and the passage of the National Land and Water Use Code.⁸⁴ The central player (on the pro-reform side) suddenly became a symbolic instrument to address omnibus reform issues. In the process, MAPALAD and its NGO allies failed to maneuver during crucial shifts or to bring back the struggle at the ground level focused on the specific claim of the MAPALAD farmers.

MAPALAD and its allies raised the stakes without due consideration of their power - a serious pitfall in social movements (Tilly, 1978). According to Tilly, the broader the scale of the action and the less powerful the group, the more it will likely suffer repression.⁸⁵ More so when the main force is weakened because allies take over leadership of the campaign; and worse, when the command is more powerful than the force it is supposed to lead.

This retrospective analysis rests on the imperative of redistributive

⁸² Balay Mindanao Foundation Inc., a Cagayan de Oro based NGO leading the NGO alliance supporting the MAPALAD struggle for Sumilao.

⁸³ First Endorsement of Charlito Z. Manlupig, OIC-Regional Director, Regional Office No. 10, Department of Agrarian Reform, April 18, 1994.

⁸⁴ T. S. Villarin, "Mapalad in Retrospect and Beyond: Assessing the Agrarian Reform Struggle," *KAISAHAN Occasional Paper* No. 98-01, February 1998, p. 8.

⁸⁵ C. Tilly, *From Mobilization to Revolution*, Reading, M.A. as cited by Eduardo Canel, "New Social Movement Theory and Resource Mobilization Theory: The Need for Integration," in M. Kauman and H.D. Alfonso (editors), *Community Power and Grassroots Democracy: The Transformation of Social Life* (London: ZED Books, 1997), p. 208.

justice and legitimate demands of MAPALAD farmers. However, it does not need to re-emphasize the issue of social justice; rather, it focuses on strategy. It specifically looks into the ability of pro-reform forces to exercise flexibility in the utilization of available forces as well as ability to modify strategies adaptive to the non-steady state of the playing field. Only when players do not lose control of the game can best solutions be possibly attained. When state reformists do not represent the dominant voice of the state, pro-reform social forces below must not expect the former to deliver the required institutional change that can alter the strategic behavior of states. To pursue reforms, pro-reform social forces must amass a sufficient force within society to push the state to reform itself. Moreover, the symbiotic union of state reformists and pro-reform social forces on the ground must not fail to take into account other power blocs; i.e., landlords, religious leaders, tribal leaders, businessmen and other players. It has to grasp the conditions of the political market.

The lessons of the MAPALAD struggle reveal inadequacies in past land reform strategies implemented by government and influenced by pro-reform social forces. Prospectively, there is a need to develop alliances beyond land transfer. The same spirit extends to enabling beneficiaries to develop their capacities as members of the body politic and participate in governance. They can only do so if they attain minimum requirements for civil society participation - property and education. In the current thrust of DAR to redistribute the more contentious private agricultural lands, the better approach is to accumulate gains within a defined terrain and to locate each contest in terms of its relative contributions to the core issue. This leads to a policy of "gaining victories in decisive struggles while seeking accommodation in secondary ones" (during extended games). Reform forces should avoid fighting dramatic battles for the sake of institutional reform — which demands time for reforms to be embedded. They must learn to maneuver and make pivotal moves to accumulate "smaller" gains that eventually contribute to institutional change.

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This paper is part of a series of studies that analyze the effects of agrarian reform, gains in capability building and the key institutional aspects that highlight agrarian reform. Francisco Lara, Jr., former Executive Director and currently a member of the Board of Directors of MODE, headed the research team that undertook the research study, *Retrospective and Prospective Studies of Agrarian Reform*.

MODE gratefully acknowledges the financial support of the Ford Foundation for the research project, *Retrospective and Prospective Studies of Agrarian Reform* and the publication of this paper.

Editors: Dr. James Putzel and Francisco Lara, Jr.
Cover Design and Layout: Nonoy Regalado
Cover Photo: Lyn Rillon
Production Team: Aurora Regalado, Joel Rodriguez and John Vincent Cruz

Published in Quezon City, Philippines

About the Author

Eddie Quitoriano is the managing partner of Guava Dynamics Consulting Co. His recent publications include *Belgian ODA for Agrarian Reform* (2000) and *Vulnerable Sectors and Complex Situations: Four Case Studies on Food Security* (2000).

About MODE

The Management and Organizational Development for Empowerment, Inc. (MODE) is a development organization, which was established in January 1992 to help address the growing demands of other NGOs and funding agencies (FAs) in mainstreaming and integrating their developmental socio-economic projects. By mainstreaming, we mean helping peoples' organizations, together with their partner NGOs and FAs, strengthen their capability to make their economic and/or business projects compete in the market. By integrating, we mean helping our partners and clients realize and expand their potential for economic cooperation.

MODE's developmental programs and services include project development, project performance and impact evaluations; feasibility studies and pre-investment appraisals of economic projects; organizational diagnosis and management audit; staff and management development training; information technology development; and research and policy advocacy on food security, agrarian reform and agricultural trade issues.

Contact Address:

99 Matimtiman St., Sikatuna Village, Diliman,
Quezon City, Philippines 1101
Tel. Nos. (632) 435-3652 to 53, 927-3044; Fax No. (632) 435-3655
E-mail: info@mode.org
Website: www.mode.org

MODE Research Papers is a publication of the Research and Advocacy Unit of the Management and Organizational Development for Empowerment, Inc. It presents original studies on major development and agricultural issues, aimed at informing and stimulating discussion and debate on these issues. Topics of interest are food security, agrarian reform, agricultural trade and finance.

In *Agrarian Struggles and Institutional Change: The MAPALAD Struggle for Land*, Eddie Quitariano retraces the history of the struggle for land by members of the MAPALAD farmers cooperative and argues that the fight for land is tempered not just by CARP itself but by other legal and tactical nuances at the grassroots level.

Quitoriano further pinpoints the weaknesses in the strategy adopted by the farmers-beneficiaries' allies. He identifies the factors that won support for the farmers' plight and the ones that caused their ultimate defeat at the Supreme Court.

ISSN 0118-6914

