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**EXECUTIVE SUMMARY**  
**OF THE MOTION FOR RECONSIDERATION**  
**FILED BY**  
**Alyansa ng mga Mangagawang Bukid sa Hacienda Luisita (AMBALA)**

**PREFATORY**

Equity never counteracts a law. Equity jurisdiction of the court are applied only so as to prevent and not to create inequity.

The farmworkers of Hacienda Luisita patiently waited for several years for the resolution of the more than a decade-long agrarian conflict that wreaked havoc on their lives. But it seems that they have waited in vain. For on 5 July 2011, the Supreme Court issued a Decision which ordered the farmworkers to choose between land and stock. Or the farmworkers are given the option to remain as stockholders of HLI or to opt for land distribution.

The *ponencia* arrived at the said by applying the doctrine of operative facts. But the farmworkers submit that this doctrine was wrongly applied in this case.

There is no room for the application of the equity jurisdiction of the Court because the CARL, in Section 31, categorically provides for direct land distribution in the event a stock distribution is not completed

Assuming that equity were to be applied, then it should be applied in favor of the FWBs by ordering direct land distribution, because that is the inequity that continues to fester – that the FWBs who have been promised ownership of the lands they till are denied the same, twenty-three years after the passage of CARL.

**GROUND OF THE MOTION:**

**I. SECTION 31 OF REPUBLIC ACT 6657 IS UNCONSTITUTIONAL.**

**Section 4, Article XIII of the Constitution means that ONLY the**

**farmers or landless regular farmworkers can collectively own the lands they till.**

This collective ownership can be exercised through a farmers cooperative or association wholly owned by the farmers themselves

Section 4, Article XIII of the Constitution is clear. It provides that the law should undertake an agrarian reform program founded on the right of the farmers and regular farmworkers who are landless to OWN DIRECTLY OR COLLECTIVELY the land they till. It means that ONLY the farmers or landless regular farmworkers themselves can collectively own the lands they till. It does not provide that the farmers or regular farmworkers who are landless can own the land together with other persons much more the original landowner who do not till the same.

What is envisioned by the framers of the Constitution when they refer to the right of the farmers or regular farmworkers to collectively own the land they till is collective ownership by the farmers or landless regular farmworkers through a farmers' cooperative or association that is also WHOLLY OWNED BY THE FARMERS OR LANDLESS REGULAR FARMWORKERS. This situation was made manifest in section 29 of RA 6657.

Section 4, Article XIII of the Constitution contemplates a situation where the farmers own the land through a farmers' cooperative or association, or even through a corporation but the said corporation should be WHOLLY OWNED by them. It does not include a situation where the farmers are mere stockholders of a corporation and their equity is only limited to the extent of the value of the agricultural land they bought from the corporate landowner.

**Section 31 of RA 6657 does not give the farmers ownership of land but the corporation.**

A corporation is an artificial being vested by law with a personality distinct and separate from those of the persons composing it. The capital contribution is infused to the corporation by any of its stockholders, and in the case of farmers, the agricultural land they purchased from the corporation, becomes the property of the corporation as a distinct and separate entity. This capital constitutes a trust fund to which the creditors may look for satisfaction.

Although the farmers purchased the agricultural land of the corporation, they do not become the owners thereof but the corporation. **The land becomes mere investment of the farmers and it will be owned by the corporation. The farmers will only be given shares of stocks equivalent to the value of their land.** Clearly, this set up is not consistent with section 4, Article XIII of the Constitution.

There is no assurance, contrary to the pronouncement of the majority of the members of the Honorable Court, that after the dissolution and liquidation of the corporation, the agricultural lands contributed by the farmers will be returned to them. This will violate the trust fund doctrine.

**The farmers, as stockholder, is subject to the power of the Board**

The farmers will own only an aliquot part of the corporate asset and their ownership is only to the extent of the value of the agricultural lands they bought from the corporate landowner. Under such an instance, the farmers will lose control of the land. And it will be the corporation through the board that will have the power to dispose the same or regulate its use.

This could not be remedied and corrected by the simple expedient of the DAR and PARC seeing to it the farmers should always own majority of the common shares of the corporation. For clearly, the farmers' shares will depend on the value of the agricultural lands that the corporation will sell to them.

**Section 31 does not distribute or even guarantee the distribution of lands to the farmers**

Section 31 of RA 6657 does not undertake to give the farmers the right to own the land collectively as discussed above. Moreover, it does not guarantee distribution of land to the farmers. It does not distribute lands to the farmers contrary to the letter and intent of section 4, Article XIII of the Constitution. Such being the case, section 31 of RA 6657 is unconstitutional.

**Agrarian reform is first and foremost a social justice and equity question before it is a business proposition. Thus agrarian reform basically aims to no less than effect the transfer of ownership and control of the land to the direct producers, the farmers or farmworkers**

Section 31 does not have this character of transfer of ownership and control to the farmworkers of the land.

And while it may be true that there have been so many instances where, despite actual land distribution, the implementation of agrarian reform was unsuccessful, still, the constitutional mandate that land should be actually distributed to the farmers remains.

**Section 4, Article XIII of the Constitution mandates actual land distribution but section 31 of RA 6657 does not**

In the case of section 31 of RA 6657, what is given to the farmers are stocks not land but ownership of the land belongs to the corporation as already discussed above.

## **II. THE SDOA WAS REVOKED TOGETHER WITH PARC'S APPROVAL OF HLI'S PROPOSAL FOR STOCK DISTRIBUTION AND THE STOCK DISTRIBUTION PLAN (SDP)**

The petition filed by AMBALA was for the revocation of HLI's SDP/SDOA, which, essentially, is one and the same

When AMBALA and the Supervisory Group filed the petition to revoke the SDO of Hacienda Luisita, what they sought to be revoked was not only the Stock Distribution Plan but also and most importantly the Memorandum of Agreement which this Honorable Court referred to as the Stock Distribution Option Agreement (SDOA).

The MOA/SDOA that provided for unequal, unjust and inequitable conditions to the farmworkers. The MOA or the provisions thereof are the evil that brought about the misery of the farmworkers.

The Task Force Hacienda Luisita and its terminal report clearly tackled and invalidated the SDOA. The Task Force Luisita said that the SDOA contained provisions that are contrary to law and public policy, hence void.

The PARC Validation Committee also put in issue the provisions of SDOA and said that they violate the provision of RA 6657 and DAO 10.

### **The SDOA is the substance of SDP.**

It was the MOA/SDOA that provided for the distribution of stocks to the farmworkers for a period of thirty (30) years under the ratio 1/30 per year. It is the SDOA which provided for the "mandays" as basis for distribution of shares and which provided for the mechanics of stock distribution to the farmworkers.

The SDOA specifically paragraph 3 thereof violates the provision of RA 6657 and DAO AO 10.

Paragraph 3 of the SDOA led to the watering down of the shares of the original 6,296 FWBs.

Paragraph 3 of the SDOA providing for a 30-year time frame for stock transfer is an arrangement contrary to section 11 of DAO 10.

There is no reason for the Court to declare that the SDOA was not revoked and that it was only the SDP and PARC resolution approving it that was cancelled.

Such opinion of the Court, with due respect to the members of the majority, is not in accord with logic, fairness, justice and equity. It should be reconsidered.

For how would the SDOA remain to be operative when it is the very evil that was sought to be revoked by the farmworkers. The provisions of the SDOA violate RA 6657 and public policy.

**So how on earth did the majority of the members of the Honorable Court declare it to be STILL valid and binding is quite puzzling?**

“Justice Brion’s opinion:

“The recall/revocation of the SDP carried with it the revocation of the SDOA, since the two are essentially the same. The SDOA is the contract between the FWBs and the landowners (HLI/Tadeco) that was embodied and *made the very core* of the SDP – the proposal submitted by HLI for the PARC’s approval as compliance with the CARL. The illegality that permeates the SDP (leading to PARC’s decision to revoke it) therefore also extends to the SDOA. If we recognize that the SDP is different from the SDOA, as the *ponencia* suggests, inconsistency and absurdity would result.

**Without the corresponding PARC approval and without the SDP, there is no legal basis left to support the SDOA**

Justice Sereno’s opinion:

“Without the corresponding PARC approval and without the SDP, there is no legal basis left to support the SDOA.”

When the Court affirmed the recall of PARC of its approval of the SDP by cancelling/revoking PARC Resolution 89-9-12, the SDP of Hacienda Luisita is also revoked.

Consequently and logically, the SDOA, which was embodied in the SDP and which is the “meat” of the SDP so to speak, was also invalidated.

Justice Sereno’s opinion:

“There is not a single legal twig on which the order to proceed with the voting option can hang, except the will of this Court’s majority.”

**III. THE DOCTRINE OF OPERATIVE FACTS INAPPLICABLE. THERE IS NO LEGAL BASIS IN MAKING THE FARMWORKER-BENEFICIARIES CHOOSE TO OPT FOR ACTUAL LAND DISTRIBUTION OR TO REMAIN AS STOCKHOLDER OF HLI**

The decision is akin to approving the August 2010 compromise agreement submitted by HLI. In the compromise agreement, HLI also wanted their farmworkers to choose, that is, opt for stocks instead of land. This is for which reason HLI manipulated and abused the despondency of the farmworkers by “bribing” them with monetary consideration so that they will choose stocks.

HLI welcomes this decision of the majority of the members of the Honorable Court for it is not only in accord with the object of its compromise agreement and it gives HLI the opportunity to device means to suppress the will of the farmworkers to have the lands actually distribute to them.

**There is no undue harshness or injury that would result to HLI in case lands are actually distributed to the farmworkers.**

If HLI will be deprived of its land, it will be entitled to just compensation. Thus, there would be **NO INJURY** to HLI in the event that its land will be distributed to the farmers. HLI can also have its shares back from the qualified FWBs and be paid just compensation. It would not suffer from any injustice by the application of the law.

**The decision which orders the farmworkers to choose whether to remain as stockholders of HLI or to opt for land distribution would result to inequity and prejudice to the farmworkers**

The very reason why the farmworkers petitioned to revoke the SDO of Hacienda Luisita was the fact that instead of the envisioned better lives under the said scheme, their living conditions worsened. The farm workers were not given any dividends. They remained the minority stockholders. They have no control on the use and disposition of the assets of the corporation including the land. They have no say in the corporate business ventures. Their hours of work were dictated by the corporation. In short, they were at the mercy of HLI

Justice Brion:

“Furthermore, I see no reason to allow the FWBs to remain as stockholders of HLI; **To remain as stockholders of an almost-bankrupt corporation certainly will not afford the FWBs the “opportunity to enhance their dignity and improve the quality of their lives.”**”

Justice Sereno:

“The doctrine of operative facts cannot apply either for two important reasons: (1) it will legitimize the injustice committed to the FWBs when their collective shares were arbitrarily reduced to only 33% of petitioner HLI through the undervaluation of the transferred assets; and (2) it will legitimize a second illegal reduction of the shares of the FWBs when more stockholders were added to their collective group. This Court cannot allow them to waive the rights that were granted to them under the social justice clause of the Constitution.

It strains reason how qualified FWBs can be allowed the “false choice” of agreeing to a patently illegal SDO scheme, especially when their approval of the SDOA will not even improve their standing in the corporation, but only allowed to continue being minority stockholders. The vulnerability of qualified FWBs under the voting option is underscored by their current economic hardships and their desperate need for immediate financial assistance”

Reasons why the doctrine of operative facts and the option granted to the farmworkers to choose between actual distribution or to remain as stockholder of HLI, is inapplicable in the present case:

(1) It would cause the farmworkers to remain in an illegal arrangement which is contrary to the mandatory character of social justice legislation;

(2) It would cause the farmworkers to remain in a corporation where they have no control in the conduct of its affairs as they remain minority stockholders thereof;

(3) It would cause the farmworkers to remain in a bankrupt corporation;

(4) It will legitimize the injustice committed to the FWBs when their collective shares were arbitrarily reduced to only 33% of petitioner HLI through the undervaluation of the transferred assets;

(5) It will legitimize a second illegal reduction of the shares of the FWBs when more stockholders were added to their collective group.

(6) The law provides for no other option but land distribution in the event a stock distribution is not completed;

(7) It was wrongly applied to favor HLI when the doctrine should have been applied to favor the farmworkers;

(8) The stock distribution scheme under Sec. 31 of RA 6657 is no longer an available option under existing law as ruled by the majority of the members of the Honorable Court.

(9) The condition of the loan of TADECO with GSIS and Central Bank is that the land should be distributed to the farmers.

**It is the farmworkers more than the HLI who are entitled to the application of equity jurisdiction of the Honorable Court**

Justice Sereno:

“On the other hand, if we call this a case in which equity is due petitioner HLI, then we encourage impunity. Impunity is when we reward the violation of the SDP by allowing its implementation to be marred by the illegalities that we have found here. In all the cases cited, the doctrine is never a reward for illicit acts as performed here. What this Court would signal is that it is rewarding a hollow promise of compliance with the law in order to obtain an administrative permit; then, after the permit has been obtained, break the law, since the lawbreakers can have this illicit act validated by the Court. This must absolutely not happen.”

The Honorable Court may have “prevented” undue harshness or unfairness to the owners of Hacienda Luisita. But in turn, caused undue

harshness, injustice, prejudice and injury to the other party, the farmworkers – the poor and the impoverished - who under the social justice provision of the Constitution and under agrarian reform laws should be subject to the protection of the State.

The majority of the members of the Honorable Court should have considered that the application of the doctrine of operative facts should have been to favor the majority who are landless and who suffered from violations committed by their landowners and not the reverse.

**The MOA was already repudiated  
by the farmworkers**

The filing of the petition for revocation of SDO by more than five thousand members of AMBALA; the strike of the farmworkers; and the death of seven of their members is such repudiation. Hence, there is no more reason for its continued implementation in Hacienda Luisita.

**HLI will not be prejudiced even if  
the homelots and “benefits” could  
not be returned by the  
farmworkers**

The homelots and the monetary benefits are benefits to the farmworkers independently provided by law and not because of the grace of HLI.

Production shares or profit shares are given not out of generosity of HLI but because its farmworkers rendered work, and had contributed to making the land productive. Thus, they should rightly be compensated for their labor and they must be given shares in the profit.

**If ever the farmworkers received anything, it was the product of their blood and sweat and those were mere compensation for their labor that made the land productive. They were given not because they were considered and treated co-owners of the corporation.**

**IV. IMPROVING THE ECONOMIC STATUS OF FWBs IS AMONG  
THE LEGAL OBLIGATIONS OF HLI**

The condition that SDP should improve the life of the farmworkers is an integral part of the SDP. It is therefore one of the legal obligations of HLI to the farmworkers. It is also an imperative imposition of RA 6657 and DAO 10.

But, HLI has no intention of improving the lives of the farmworkers but to maintain their control and ownership of Hacienda Luisita.

**V. THE CONVERSION OF THE AGRICULTURAL LANDS  
VIOLATE THE CONDITIONS OF RA 6657 AND DAO 10.**

The conditionality is not mere decoration and is intended to ensure that the farmers can continue with the tillage of the soil especially since it is the only occupation that majority of them knows.

**VI. HLI IS NOT ENTITLED TO PAYMENT OF JUST COMPENSATION. IF TO BE PAID, AMOUNT SHOULD BE FORTY THOUSAND PESOS (P40,000.00) PER HECTARES.**

HLI should not anymore be paid compensation for the values of the lands. It must be said time and again that the lands should have been distributed to the farmworkers for free as early as 1964.

TADECO become owner of HLI through loan from GSIS and Central bank. The condition of the loan provides that hacienda luisita is to be given to the farmworkers for free.

Manila RTC ordered the Cojuangcos to transfer the control of Hacienda Luisita to the Ministry of Agrarian Reform, which will distribute the land to small farmers after compensating the landowners P3.988 million.

When Mrs. Corazon Aquino became President her government moved for the dismissal of the appeal, which was granted by the Court of Appeals on the condition that Luisita will be given to the farmer incase SDO fails.

**It would be unfair and prejudicial to the government or the farmworkers to compensate TADECO/HLI of the value of the land**

It would be the height of injustice if HLI is paid the value of the lands. In the first place, it was ordered to be distributed for free to the farmers or as the decision of the Manila RTC provides, TADECO, should be compensated only for P3.988 million.

HLI also has yet to account for the price of the share of the 500-hectares it sold to RCBC and LIPCO and for the 3% gross production shares of the farmworkers for the sixteen (16) years of its operation. As such, HLI should not be paid any centavo for the land.

In the event that the Honorable Court will rule that HLI is indeed entitled to compensation, it should be paid forty thousand pesos (P40,000.00) per hectare.

That was the same value for the land which TADECO declared in 1989 to make sure that the farmers will not own the majority of its stocks.

HLI should not be allowed to claim for a much higher valuation in the event the Court declares the payment of compensation to TADECO or HLI. Otherwise, it would be unfair to the farmworkers

**LUISITA INDUSTRIAL PARK CORP. (LIPCO) AND RCBC ARE NOT INNOCENT PURCHASER FOR VALUE.**

Luisita Industrial Park Corp. (LIPCO) and Rizal Commercial Banking Corporation (RCBC) merely step into the shoe of HLI.

The conversion order has imposed conditions to be complied with by the applicant or grantee. And that the land is subject to the conditions of the conversion order was plainly annotated in the title. These conditions were transferred to LIPCO and RCBC. They could not therefore, feign ignorance of the conversion order and the stipulations or conditions.

When LIPCO and RCBC executed the *dacion en pago* through which RCBC acquired the portion of the land covered by SDO, November 16, 2004 Hacienda Luisita Massacre already happened. It could not be said then that RCBC and LIPCO have no knowledge of the dispute between the petitioner and the farmworkers on the subject land.

Even before the infamous Hacienda Luisita massacre, the agrarian dispute in Hacienda Luisita is already very well known all through out the country. This dispute could not have escaped the knowledge of RCBC and LIPCO.

LIPCO is a wholly-owned subsidiary of HLI. As such, it is conclusively presumed that it has knowledge of the agrarian dispute on the subject land. It could not feign ignorance of the said fact especially since they have the same directors and stockholders.

### **CONCLUDING STATEMENT**

The SDO in HLI did not improved but had further thrust the farm workers deep into the quagmire of poverty. Several years after its implementation, the farm workers remained in a state of destitution and misery. There is no more reason therefore, for the continued operation of the said scheme. The land should now be distributed to the farmworkers. In the first place, this sprawling agricultural estate rightfully, legally, morally and historically belongs to them.

### **PRAYER**

It is prayed from the Court to:

1. **RECONSIDER** the majority Decision;
2. **ORDER** the actual distribution of the agricultural lands to the farmworkers.

**OTHER RELIEF**, just and equitable under the premises, is likewise prayed for.

Quezon City for Manila, 19 July 2011.