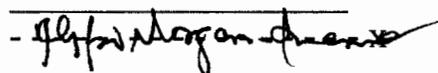


**G.R. No. 181953 – LAND BANK OF THE PHILIPPINES, *Petitioner* v. RURAL BANK OF HERMOSA (BATAAN), INC., *Respondent*.**

Promulgated:

July 25, 2017

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**SEPARATE CONCURRING OPINION**

**JARDELEZA, J.:**

I **concur** with the *ponencia*. I write this Opinion, however, to respond to the Separate Concurring Opinion referring to a “gravely erroneous” statement made by this Court in its Decision in *Alfonso v. Land Bank of the Philippines (Alfonso)*.<sup>1</sup>

The Separate Concurring Opinion took particular exception to the Court’s statement in *Alfonso* to the effect that “the DAR formulas partake of the nature of statutes” which under Republic Act No. 9700,<sup>2</sup> became law itself.”

*First*. The allegedly objectionable statement has, in fact, appeared in one form or another in previous cases decided by the Court.<sup>3</sup> The Court in *Alfonso* merely affirmed the prevailing, and in its view, correct, rule.

*Second*, and in my view more importantly, the objections raised in the Separate Concurring Opinion have already been completely (and soundly) rejected by the Court in *Alfonso*. I quote:

Arguing against the binding nature of the DAR formula, Justice Carpio, in his Separate Concurring Opinion, cites *Apo Fruits* which held, to wit:

What is clearly implicit, thus, is that the basic formula and its alternatives—administratively determined (as it is not found in Republic Act No. 6657, but merely set forth in DAR AO No. 5, Series of 1998)—although referred to and even applied by the courts in certain instances,

<sup>1</sup> G.R. Nos. 181912 & 183347, November 29, 2016.

<sup>2</sup> An Act Strengthening the Comprehensive Agrarian Reform Program, Extending the Acquisition and Distribution of All Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise, Known as the Comprehensive Agrarian Reform Law of 1988, as Amended, and Appropriating Funds Therefor.

<sup>3</sup> See *Land Bank of the Philippines v. Yatco Agricultural Enterprises (Yatco)*, G.R. No. 172551, January 15, 2014, 713 SCRA 370; *Land Bank of the Philippines v. Celada (Celada)*, G.R. No. 164876, January 23, 2006, 479 SCRA 495.

does not and cannot strictly bind the courts.

x x x

The argument of *Apo Fruits* that the DAR formula is a mere administrative order has, however, been completely swept aside by the amendment to Section 17 under RA 9700. To recall, Congress amended Section 17 of RA 6657 by expressly providing that the valuation factors enumerated be “translated into a basic formula by the DAR x x x.” This amendment converted the DAR basic formula into a requirement of the law itself. In other words, the formula ceased to be merely an administrative rule, presumptively valid as *subordinate legislation* under the DAR’s rule-making power. The formula, now part of the law itself, is entitled to the presumptive constitutional validity of a *statute*. More important, *Apo Fruits* merely states that the formula cannot “strictly” bind the courts. The more reasonable reading of *Apo Fruits* is that the formula does not strictly apply in certain circumstances. *Apo Fruits* should, in other words, be read together with *Yatco*.<sup>4</sup> (Italics in the original, citations omitted.)

In fact, the Court in *Alfonso* has already rejected similar proposals (from no less than members of the Court) to abandon the doctrine as set forth in *Banal*,<sup>5</sup> *Celada*, and *Yatco*. In giving full constitutional presumptive weight and credit to Section 17 of Republic Act No. 6657,<sup>6</sup> as amended, Department of Agrarian Reform (DAR) Administrative Order No. 5 (1998)<sup>7</sup> and the resulting DAR basic formulas, the Court thus explained:

The determination of just compensation *is* a judicial function. The “justness” of the enumeration of valuation factors in Section 17, the “justness” of using a basic formula, and the “justness” of the components (and their weights) that flow into the basic formula, are all matters for the courts to decide. As stressed by *Celada*, however, until Section 17 or the basic formulas are declared invalid in a proper case, they enjoy the presumption of constitutionality. This is more so now, with Congress, through RA 9700, expressly providing for the mandatory consideration of the DAR basic formula. In the meantime, *Yatco*, akin to a legal safety net, has tempered the application of the basic formula by providing for deviation, where supported by the facts and reasoned elaboration.

While concededly far from perfect, the enumeration under Section 17 and the use of a basic formula have been the principal mechanisms to implement the just compensation provisions of the Constitution and the CARP for many years. **Until a direct challenge is successfully**

<sup>4</sup> *Alfonso v. Land Bank of the Philippines*, *supra* note 1.

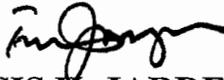
<sup>5</sup> *Land Bank of the Philippines v. Banal*, G.R. No. 143276, July 20, 2004, 434 SCRA 543.

<sup>6</sup> Comprehensive Agrarian Reform Law of 1988.

<sup>7</sup> Revised Rules and Regulations Governing the Valuation of Lands Voluntarily Offered or Compulsorily Acquired Pursuant to Republic Act No. 6657.

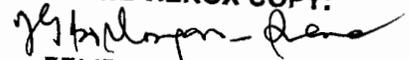
**mounted against Section 17 and the basic formulas, they and the collective doctrines in *Banal, Celada and Yatco* should be applied to all pending litigation involving just compensation in agrarian reform.** This rule, as expressed by the doctrine of *stare decisis*, necessary for securing certainty and stability of judicial decisions x x x.<sup>8</sup> (Italics in the original, emphasis supplied.)

This Court decided *Alfonso* barely a year ago. Absent any change in law, I see no reason why the established rule should be revisited so soon.



**FRANCIS H. JARDELEZA**  
*Associate Justice*

**CERTIFIED XEROX COPY:**



**FELIPA B. ANAMA**  
**CLERK OF COURT, EN BANC**  
**SUPREME COURT**

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<sup>8</sup> *Alfonso v. Land Bank of the Philippines, supra* note 1.