94 Phil. 956

[G.R. No. L-4918. May 14, 1954]

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JOSE LEON GONZALEZ, ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

BENGZON, J.:

In January 1947, in the Court of First Instance of Rizal, the Republic started this proceeding under Commonwealth Act No. 539 for the purpose of expropriating an extensive tract of land—over 87 hectares—for resale to the tenants thereof. Situated within the Maysilo Estate, Caloocan, and originally covered by Transfer Certificate of Title No. 35486 the property is now represented by seven Transfer Certificates of Title, numbered and owned respectively: 1373 by Jose Leon Gonzalez; 1368 by Juan F. Gonzalez; 1369 by Maria C. Gonzalez-Hilario; 1372 by Concepcion A. Gonzalez-Virata; 1370 by Consuelo Gonzalez-Precilla; 1371 by Francisco Felipe Gonzalez; and 1374 by Jose Leon Gonzalez et al.

Eight kilometers north of Plaza Santa Cruz, 1.7 kilometers east of Rizal Avenue, and 2 kilometers above Highway 54, the estate is bounded by the Araneta Institute property, the Victoneta Inc., the Balintawak Estate Subdivision, the Seventh Day Adventists' land, and the Piedad Estate. It lies within the sites of the University of the Philippines and the Capitol and within the field of expansion of the City of Manila.

All the defendants at first opposed the compulsory sale; but subsequently they waived the objection, recognizing the social-justice aims of the Government, (there were about two hundred tenants) and agreed to the designation of commissioners to determine the reasonable

market value of the property to be taken. Wherefore, in June 1948, the court appointed the following commissioners: Atty. Erasmo R. Cruz, recommended by defendants, Assistant Fiscal Sugeco, suggested by plaintiff, and Deputy Clerk Benito Macrohon, selected by the judge.

In the performance of their duties, the Commissioners received oral and documentary evidence, inspected the premises, and thereafter submitted one majority report, plus one minority report by Commissioner Sugeco. The first divided the property into two parts: one portion previously occupied by the U. S. Army with roads, playground, water and sewerage system, and valued at 5 pesos per square meter; and another consisting of rolling lands and rice fields priced at fifteen centavos per square meter. The report thereby fixed PI .75 per square meter as the average compensation for the entire estate. On the other hand Sugeco's minority opinion rated the whole parcel at ten centavos per square meter only.

The two reports provoked objections from both sides, whose oppositions were seasonably filed in writing. On May 6, 1949, obeying orders of the trial judge, Clerk of Court Severo Abellera repaired to the premises, made inquiries, and reported afterwards that the realty was fairly worth P1.90 per square meter.

Then on March 29, 1950, the Honorable Gavino Abaya, Judge, rendered his decision appraising the estate at P1.50 per square meter. It should be explained, in this connection, that all defendants agreed the entire property should be evaluated as a whole, for the purpose of facilitating the award.

The parties petitioned for reconsideration. Denial thereof motivated this appeal both by the plaintiff and by the defendants.

The plaintiff, in a series of assignments reaches the conclusion, and submits the proposition, that "there is no reliable standard for determining the reasonable worth of the defendants' land except the tax declaration Exhibit B which puts its value at P28,850. * * *. Taking into account, however, that the assessed value is usually lower by 1/3

of 1/2 of the real market value, the defendants should be given an additional 30 per cent of P28,850 or P8,655."

Such position is clearly untenable. The declaration was made in 1927; and this Court can take judicial notice of the upward trend of values, particularly of lands in or near Manila. As a matter of fact, the revised assessment in 1948 valued the entire property at P366,150. i.e., 0.42 per square meter—which is more than ten times the 1927 assessment. And in its motion for reconsideration submitted to the lower court, plaintiff invoked, as "index of value" of the land, the sale made to Francisco R. Aguinaldo, one month before the expropriation, at one npeso per square meter—thus giving the lot in question a total value of P871,982.

Another piece of evidence, indicative of prices in the vicinity, is Exhibit M showing the Seventh Day Adventists purchased in 1927, at the rate of P0.25 per square meter, a big lot adjoining the land to be expropriated. After twenty years the prices should be much higher. Yet the Government insists in compensating herein defendants at the rate of P0.04 per square meter. Obviously unmeritorious contention.

Now as to defendants' appeal. Although they took the view—in the court below—that the land's value could be reasonably fixed at P1.75 per square meter[1] the defendants here maintain they should be compensated at the rate of P2.50 per square meter. They quote with approval His Honor's summary of their own evidence as follows:

> "On November 28, 1945, Lorenzo Buenaventura bought and paid at P2 per square meter a lot which is almost adjoining the lands in question—it being separated only by a street called Sta. Quitoria (Exhibit "2"); that on July 29, 1949, the Balintawak Estate Inc., sold to Narciso T. Reyes a parcel of land at the rate of P2.84 per square meter (Exhibit "3-K"); that on December 29,1946, Concepcion Andrea Gonzalez sold to Francisco R. Aguinaldo a portion of the property in question at Pl per square meter (Exhibit "3-L"); that on November 13, 1947, Jose M. Rato sold to the Araneta Institute of

> Agriculture 373,377 (3,730) square meters at the rate of P1 and P1.60 per square meter (Exhibit "3-N"); that on May 14, 1948, Ambrosio Pablo and Sons sold to Cromwell Cosmetic Export Company 20,764 square meters at the rate of P2.50 per square meter (Exhibit "3-0"); that on November 14, 1947, the Manila Golf Club sold to the Ayala & Company 367,817 square meters at the rate of P1.08 per square meter (Exhibit "3-P"); that on April 26, 1948, Ayala & Company sold to J. M. Tuason & Company the property described in Exhibit "3-P" at the rate of P2.50 per square meter; Julian Encarnacion, secretary of the Balintawak Estate Inc., subdivision, which adjoins the property in question, declared that the lots of said subdivision are sold from P6 to P12 per square meter in cash and from P9 to P15 per square meter by installment."

And they rely principally on the prices in Exhibits 3-K, 3-O and 3-Q because they "were sufficiently near in point of time with the date of condemnation proceedings" to reflect true land values in the locality.

However such Exhibits cannot be taken as conclusive valuation. In Exhibit 3-K, the parcel was purchased from the Balintawak Estate Inc. a real estate subdivision corporation. Prices in realty subdivisions are necessarily higher, because of improvements therein, such as roads, bridges, curbs, etc. The sale in Exhibit 3-O, though exhibiting a higher valuation, cannot be literally followed because it refers to a much smaller lot on the provincial highway. The prices in 3-Q of the Manila Golf Club, refer to a lot nearer Manila by a kilometer. Hence defendants-appellants' demand for P2.50 per square meter may not be upheld.

Now having found plaintiff's proposition as unreasonable, and defendants' claim for P2.50 as unfounded, we may proceed to examine whether the trial court's determination of the market value should be modified, on the basis of the evidence of record. It is needless to repeat that the Government, in eminent domain proceedings, must pay just compensation or the fair market value, that such value represents the price which the property will bring when offered for sale by one

who desires, but is not obliged, to sell and is bought by one who is under no imperative necessity of having it[2] and that in determining such value, evidence is competent of bona fide sales of other nearby parcels at times sufficiently near to the proceedings to exclude general changes of values due to new conditions in the vicinity.[3]

Parenthetically, in expropriations like this—for the benefit of other individuals, not directly benefiting the public—it might be interesting to inquire whether a more liberal interpretation of "just compensation" should be adopted in favor of the *owner who is compelled* to part with his private property for the exclusive benefit of a few. Consider that unlike other eminent domain proceedings, this does not directly benefit him as a part of the "public."

However, this is unnecessary, for the record yields, sufficient elements of decision to make a just and equitable award,

The majority commissioners,[4] rejecting the plaintiff's evidence, took into account the bona fide sales of nearby parcels and, aided by personal knowledge they gained thru inspection, arrived at the conclusion that the reasonable market value of the entire property was P1.75 per square meter. The dissenting commissioner's report, based mainly on the 1927 assessment values, proved too conservative to be of any help.

The Clerk of Court was specifically instructed to make a new assessment, in view of conflicting reports and the objections of the parties. This officer after conducting an ocular inspection of the place and gathering information from people residing in the vicinity recommended P1.90 per square meter. After hearing the parties, the trial judge, in his discretion, estimated that under the circumstances, one peso and fifty centavos per square meter was reasonable compensation for the hacienda.

We have not been shown wherein the trial judge abused his discretion in reducing the prices recommended by the court's referees. Two purchases-and sale transactions impartial in 1947, about neighboring

realty may shed favorable light upon His Honor's valuation.

In August 1947 Jose Ma. Rato sold to Victoneta Inc. 581,872 square meters of adjoining land at P0.85 per square meter (Exhibit 3-M).

In July 1947 Jose Ma. Rato sold to Araneta Institute of Agriculture four parcels of land totalling 373,377 square meters adjoining the land sold by Exhibit 3-M at prices ranging from ¥1 to 11.60 per square meter. No improvements were included in both sales.

These two parcels, being sufficiently large and located within the vicinity may afford some adequate bases of comparison. It is unimportant that the sales were consummated several months after these proceedings had begun, because unlike other eminent domain proceedings for public use—roads, bridges, canals, markets, etc.—these do not tend to inflate prices of adjoining properties.

These two sales were made by a Spaniard residing in Madrid, thru a local agent. He was obviously anxious to liquidate his affairs here, as shown by the circumstance that in two months he disposed of two sizable parcels of real estate. Such disposition and such absence must have given him a natural disadvantage in the bargaining, so that a discount of 10 or 20 per cent was not improbable.

The topographical features of Rato's land do not appear. It probably is agricultural—sold to an agricultural institute. On the other hand, the defendants' hacienda is mostly high ground, rolling hills (p. 206 Record on Appeal) which, subdivided into residential lots, would command higher prices.

Another thing: whereas defendants' land is served by Reparo Street, the Victoneta Inc. lot does not enjoy that advantage (Exhibit 3).

But most significant is the admitted fact that one-third of defendants' land has permanent improvements, made by the U. S. Army, consisting of good paved roads, playgrounds, water system, sewerage and general levelling of the land suitable for residential lots (p. 214 Record on Appeal) together with electric installations and buildings

(p. 206 Record on Appeal).

Considering the above circumstances, in relation to the price of P2.50 paid for the Manila Golf Club by J. M. Tuason & Co., we do not feel justified to declare that the price of P1.50 is excessive. Neither is it too tow. Two defendants, at least, admitted it was just and reasonable. (p. 274 Record on Appeal).

Wherefore, on the question of just compensation, the trial judge's assessment has to be approved.

Yet there is one point on which defendants' appeal should be heeded. The Government deposited P28,850 and entered the premises by virtue of a court order, under Act No. 2826. The Rural Program Administration took possession on or about January 25, 1947. Defendants lost the control and use of their property as of that date. Their counsel now claim legal interest on the amount of compensation; and the plaintiff agrees, as it has to. In Philippines Railway *vs*. Solon, 13 Phil., 34 we held that in condemnation proceedings "the owner of the land is entitled to interest, on the amount awarded, from the time the plaintiff takes possession of the property."

Another assignment of error of the defendants is that the lower court failed to make the plaintiff pay the costs. The plaintiff appellee acknowledges this, in view of section 13 Rule 69. The last part of the section is not applicable, because the plaintiff appealed and lost.

Wherefore the decision of the court *a quo* will be affirmed as to the value to be paid by the plaintiff for the expropriated land. It is" of course understood that the money already deposited and taken by defendants should be discounted. Said decision, however, will be modified by awarding interest to the defendants at six per cent from January 25, 1947 until the date of payment. Costs will be chargeable to the plaintiff. So ordered.

Paras, C. J., Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, JJ.,* concur.

[1] They said: “Wherefore, the herein defendants respectfully pray that the decision in question be reconsidered and amended by fixing the value for the purpose of compensation at an amount ranging from P1.75 to P2.50 per square meter * * *.” Such language means the property could be bought at P1.75 per square meter. Some of defendants asserted P2 was just payment.

[2] Manila Railroad Co. *vs*. Alar, 36 Phil., 500; Manila Railroad Co. *vs*. Caligrihan, 40 Phil., 326.

[3] Manila Railroad Co. *vs*. Velasquez, 32 Phil., 286.

[4] One of them appointed by the court, and therefore presumably

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