103 Phil. 231

**[ G. R. Nos. L-9556 & L-12630. March 29, 1958 ]**

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BIENVENIDO GARCELLANO, ET AL., DEFENDANTS. ROMAN CATHOLIC CHURCH OF ZAMBOANGA AND BENITO R. ZABALA, DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**REYES, J.B.L., J.:**

These are two appeals from the decision of the Court of First Instance of Zamboanga in its Civil Case No. 357, instituted by the Republic of the Philippines for the expropriation of 280,885 square meters of land considered necessary for the lengthening of the Zamboanga (Moret) Airstrip, and belonging to different persons. The joint appeal of defendants Roman Catholic Church of Zamboanga and Benito R. Zabala (G. R. No. L-9556) was, because of the amount involved, filed directly with this Court; while the appeal of defendant Luisa Santaromana was first filed with the Court of Appeals but later elevated to this Court (G. R. No. L-12630) to be decided jointly with G. R. No. L-9556, both appeals having arisen from the same case.

The lands object of the expropriation were, before the war, either rice lands or coconut lands, with the exception of a few lots that were also utilized by their owners as their place of residence and on which they had their homes.

During the last war, the Japanese forces occupied said lands, destroyed the improvements thereon, filled them up with gravel, crushed rock, and earth and constructed an asphalt runway, for use as an airfield. After the war, the American forces took over the airfield. For the use of that portion of the field belonging to her, appellant Luisa Santaromana was paid by the U. S. Army a monthly rental of P64. The airfield was turned over to the Republic of the Philippines on February 2, 1948. The Aeronautics Administration administered it for the government and tried to reach an agreement with the owners regarding payment of rentals for its use. Before any satisfactory arrangement could be had, however, the airfield was withdrawn from the Civil Aeronautics Administration and transferred to the National

Airports Corporation, created by Republic Act No. 224 on June 5, 1948. Under the management of the National Airports Corporation, appellant Santaromana claimed and was paid a monthly rental of P100 for the entire lots Nos. 507 and 503, and back rentals from June 5, 1948 to February 28, 1949 in the total amount of P886.65.

The National Airports Corporation was, in its turn, abolished by Executive Order No. 365 on November 10, 1950 and the airfield was returned to the administration of the Civil Aeronautics Administration. The latter entered into negotiations with the owners for the purchase of their respective lands occupied by the airfield, but as the parties failed to agree on the price, the present condemnation proceedings were filed on May 23, 1952.

None of the defendants questioned the right of the government to expropriate their lands, and the lower court appointed a three-man commission to assess the just value of the defendants' properties. The Commission on Appraisals made an ocular inspection of the premises and heard the testimony of the defendants. On February 17, 1953, the Commission submitted its findings to the court and (with one member dissenting), recommended the payment of P2,000 per hectare for those lands that were found to have been either ricelands or coconut lands before the war; P1.00 per square meter for a 600-square meter portion of four lots which were also used by their respective owners for residential purposes; and P1,000 per hectare consequential damages for those lots whose unexpropriated portions were found to be too small for profitable use. The dissenting member opined that the character of the lands taken had been changed from rural before the war to urban after liberation, and recommended a general price of P0.75 per square meter.

On December 8, 1954, the court below approved the majority report of the Commissioners and rendered judgment in accordance therewith, and furthermore ordered plaintiff condemnor to pay defendants interests at the legal rate on the respective values of their lands, from May 23, 1952, the date of the filing of the complaint, until full payment, but deducting from the total amounts due them the unpaid land taxes and cadastral fees on their respective lands. From this judgment, only three defendants have appealed: (1) the Roman Catholic Church of Zamboanga, owner of Lots 608-A and 711-A; (2) Benito R. Zabala, owner of Lot 712; and (3) Luisa Santaromana, owner of Lots 503-A and 507-A.

All three appellants question the reasonableness of the compensation awarded for their properties by the court below. They aver that at the time plaintiff occupied their lands on February 2, 1948, the lands were no longer agricultural but had become residential in character, and must be paid as such. Appellants' theory is that because of the gravel and

earth filling on their properties caused by the Japanese during the war, the lots could no longer be returned to their former status of rice and coconut lands and, had the government not taken them, could have been utilized by appellants for residential purposes.

The Solicitor General, upon the other hand, argues that although appellants were owners of portions of the land used by the Japanese as airfield, they did not become owners of the improvements, citing our ruling in the case of Republic *vs.* Lara, et al., (96 Phil., 170; 50 Off. Gaz. No. 12, pp. 5778-5789), to the effect that "the Japanese occupant is not regarded as possessor in bad faith of the lands taken from the defendants and appellants and converted into an airfield and campsite; its use thereof was merely temporary, demanded by war necessities and exigencies"; and that "while the defendants-appellants remained the owners of their respective lands, the Republic of the Philippines succeeded to the ownership or possession of the construction made thereon by the enemy occupant for war purposes, unless the treaty of peace should otherwise provide; and it is under no obligation to pay indemnity for such constructions and improvements"; and upon this authority urges that appellants' lands should be classified, for purposes of these expropriation proceedings, as agricultural lands, the purpose for which they were dedicated by their owners before the war.

We do not think the present case is controlled by our doctrine in the case of Republic *vs.* Lara, *supra*. There, the question at issue was whether or not appellants should be allowed to recover the value of construction or improvements (concrete strips, runways, and taxiways) introduced by the Japanese forces on their lands during the war in connection with their use as tin airfield. We held, for the reasons already cited, that appellants could not recover compensation for such improvements because it was the Republic who succeeded to their ownership. The question in these appeals is, however, different: Whether appellants' lands should be classified as agricultural, as they were before the war, or residential, as they had been converted into after their use by the Japanese forces during the war.

Considering that at the time appellants' lands were occupied by the Japanese forces during the war, they were admittedly agricultural; and that from the time of their, taking by the Japanese, appellants never for a moment recovered or regained their use and possession, we find no error in the lower court's finding that said lands were agricultural, since in eminent domain cases, the owner of private property should recover only for what he actually loses at the time his property is taken (Prov. Gov't. of Rizal, Rizal *vs*. Caro, 58 Phil., 308; Republic *vs.* Lara, *supra*; 18 Am. Jur. 873-874; Ed.. Note, 100 Law Ed. 258). The fact that the enemy had, in using appellants' lands as an airfield, enhanced their value by

converting them from agricultural lands into lands suitable for residential purposes gives appellants no right to claim for residential lands that they never had and could not have lost. What was taken from appellants were agricultural lands; it must be for agricultural lands, therefore, that they should be paid. And as none of the appellants has questioned the value fixed by the trial court for agricultural lands of P0.20 per square meter or P2,000 per hectare, there is no reason for us to modify the same.

With respect to the damages caused by the Japanese forces to appellants' lands during the war in that all their improvements were destroyed and they were rendered unfit for agricultural purposes, appellants should have filed the corresponding claims with the War Damage Commission. It is not for plaintiff to indemnify appellants for these damages, as it was not responsible therefor.

Coming now to the question of whether or not appellants Roman Catholic Church of Zamboanga and Benito R. Zabala are entitled, as they claim, to rentals for the use of their properties from the time plaintiff occupied them on February 2, 1948 up to the filing of these proceedings on May 23, 1952. Appellants must be compensated for the use and possession of their properties by plaintiff before these proceedings were started, it is true. The uniform rule of this Court, however, is that this compensation must be, not in the form of rentals, but by way of "interest from the date that the company exercising the right of eminent domain takes possession of the condemned lands, and the amounts' granted by the court shall cease to earn interest only from the moment they are paid to the owners or deposited in court (Philippine Railway Co. *vs.* Solon, 13 Phil., 34 and Philippine Railway Co. *vs*. Duran, 33 Phil., 156)" (Manila Railway Co. *vs.* Attorney-General, 41 Phil., 163; also Republic *vs.* Lara, *supra*; Republic *vs.* Leon Gonzales, 94 Phil., 956, 50 Off. Gaz. No. 6, 2461; Republic *vs.* Deleste, G. R. L-7208, May 23, 1956). Hence, appellants Roman Catholic Church of Zamboanga and Benito R. Zabala are entitled to claim from the Republic of the Philippines legal interest on the respective amounts due them from February 2, 1948, when plaintiff occupied their lands, to August, 1952, when plaintiff deposited in court their provisional value, which interest shall continue to run on the amounts left unpaid by the provisional deposit, up to their full payment.

Regarding the land taxes and cadastral fees due on the lands in question, as appellants Roman Catholic Church of Zamboanga and Benito R. Zabala are allowed legal interest from the time plaintiff started to occupy their properties as compensation for their use, so must they bear the land taxes and cadastral fees on said lands from said date up to the filing of these proceedings. This question was not raised by appellant Santaromana, probably

because she received rentals for the use of her land, first, from the United States Army, and then, from the National Airports Corporation, which justifies the holding of the court below that she must in turn pay for the land taxes and cadastral fees due on her properties at the date of the filing of this case in court.

The last issue is raised by appellant Santaromana; namely, that she should have been awarded consequential damages for the remaining areas of her lands excluded by the expropriation which were allegedly rendered completely useless by the condemnation of the greater portions thereof. On this point, the commissioners who viewed the lands in question and appraised their values recommended the payment of consequential damages to some defendants the unexpropriated portions of whose lands were found to be too small for profitable use. No such recommendation was made in appellant Santaromana's favor, the excluded portions of her lands having been found to be among those which "suffered no consequential damages as these portions are situated at a fairly safe distance from the runaway and the sizes of said portions are large enough for profitable use" (Rec. on App. of Santaromana, pp. 61-72). Appellant Santaromana did not present any evidence to overcome or show any error in this recommendation. Upon the other hand, we have held in previous cases that the report and recommendation of commissioners who had the opportunity to view the premises and determine the extent to which remaining portions of expropriated lands have been damaged, are entitled to great weight (Republic *vs.* Lara, et al., *supra*), and should not be altered without strong reasons in the evidence (Republic *vs.* Narciso, May 18, 1956, G. R. No. L-6594). The finding of the commissioners in this case that appellant Santaromana's remaining lands did not suffer any consequential damages should not, therefore, be disturbed.

Wherefore, the appealed decision is modified in the sense that plaintiff-appellee shall pay appellants Roman Catholic Church of Zamboanga and Benito R. Zabala legal interest on the respective amounts due them from February 2, 1948 to the time plaintiff-appellee made a provisional deposit of the value of their lands in the court below. Thereafter, only the amounts left unpaid by the provisional deposit to all three appellants, Roman Catholic Church of Zamboanga, Benito R. Zabala, and Luisa Santaromana, shall continue to earn interest at the legal rate until full payment. In all other respects, the decision appealed from is affirmed, with costs against appellant Luisa Santaromana in G. R. L-12630, and no costs in G. R. L-9556. So ordered.

*Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion,* and *Endencia, JJ.,* concur.

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