

**MUNICIPALITY OF DELFIN ALBANO, ISABELA, REPRESENTED BY
MUNICIPAL MAYOR TOMAS J. PUA, JR., PLAINTIFF-APPELLEE, VS.
NORMAN L. TAGUFA, DEFENDANT-APPELLANT.**

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Decision[1] dated March 30, 2012 issued by the Regional Trial Court of Cabagan, Isabela, Branch 22, in Special Civil Action No. 22-931, the dispositive portion of which reads:

WHEREFORE, premises considered, further to the Order of Expropriation dated June 27, 2001, the plaintiff is hereby ordered to pay to the defendant the sum [of] Seventy Two Thousand Nine Hundred and Sixty Pesos (P72,960.00) as Just Compensation for the Four Hundred Fifty-Six (456) Square Meters portion of the land described in paragraph 4 of the Complaint.

SO DECIDED.

The facts and the antecedent proceedings are borne out by the records.

On October 4, 2000, the plaintiff-appellee Municipality of Delfin Albano, Isabela, represented by Municipal Mayor Tomas J. Pua, Jr. (hereinafter the “Municipality”), filed a Complaint[2] for Expropriation, docketed as Special Civil Action No. 22-931, seeking to expropriate Four Hundred Fifty Six (456) square meters out of the One Thousand Two Hundred (1,200) square meters land belonging to defendant-appellant Norman L. Tagufa (hereinafter “Tagufa”). Pursuant to Municipal Council Resolution No. 2000-34, the land sought to be expropriated was supposedly “needed for purposes of infrastructure development, particularly for the construction of a Liga ng Mga Barangay Multi-Purpose Hall, Day Care Center, and Senior Citizens and RIC Building.” According to the Municipality, it offered to buy the property for its fair market value but Tagufa refused to sell the same. By virtue of Municipal Ordinance No. 05-2000 and the provisions of the Local Government Code, the Municipality, represented by its Mayor, was exercising its power of eminent domain to condemn the said property for the identified public purpose.

In his Answer[3] dated October 17, 2000, Tagufa did not deny the existence of Municipal Council Resolution No. 2000-34 which sought the expropriation of 456 square meters out of his land, but he alleged that the Municipality failed to include the other 400 square meters which were previously taken and which, in fact, had already been developed as a road. Also, Tagufa alleged that there were other vacant areas in the Municipal Compound where the Municipality could construct the Liga ng Mga Barangay Multi-Purpose Hall, Day Care Center and Senior Citizens and RIC Building. Thus, according to Tagufa, there was no justification to take his property.

In its Pre-Trial Order[4] dated March 7, 2001, the Regional Trial Court of Cabagan, Isabela, Branch 22 (hereinafter “court a quo”) declared that the only issue involved in the case was the price to be paid by the Municipality for the lot in question.

On June 27, 2001, the court a quo issued an Order,[5] the dispositive portion of which reads:

WHEREFORE, let an Order of Expropriation be issued in accordance with the terms of Section 4, Rule 67 of the Rules of Court. For the purpose of implementing this Order, each of the parties are hereby directed to submit to the Court within ten (10) days from receipt hereof the names of at least three (3) persons to be considered for appointment by the Court as Commissioners under Section 5 of the same Rule 67 of the Rules of Court.

The first Panel of Commissioners, composed of Deogracias Dumaua, Norberto Caronan and Mary Ann T. Ferrer, submitted on October 29, 2002 a Commissioner's Report,[6] recommending a just compensation of Six Hundred Pesos (P600.00) per square meter, thus:

The undersigned officers of the court for the purpose of determining the fair and just compensation of the land subject to expropriation, respectfully recommend to this honorable court a price of P600 per square meter, after taking into consideration the following:

- The property is located in the commercial center of the municipality of Delfin Albano, Province of Isabela, being only about 20 meters from the town market;

- The property is a corner lot;

- A sale of an adjacent lot, made on the 23[rd] of January 2001, shows a price of P468 per square meter.

We hold this report to be true and correct.

On June 30, 2003, the Municipality deposited with the Clerk of Court a check in the amount of Fifty Thousand Pesos (P50,000.00) payable to the order of Tagufa. On July 29, 2003, Tagufa filed a Motion[7] to withdraw the deposit. In an Order[8] dated August 1, 2003, the court a quo approved Tagufa's motion and he was allowed to withdraw the check which was in the custody of the Clerk of Court.

Meanwhile, on July 31, 2003, the Municipality filed with the court a quo Resolution 2003-001,[9] prepared by the Municipal Appraisal Committee, composed of Nelson B. Tagufa, George P. Bumagat and Florencio M. Baquiran, recommending that the fair, just and reasonable compensation for Tagufa's property was Sixty Pesos (P60.00) per square meter.

The hearing for purposes of approving the Reports and Recommendations on the just compensation was postponed on several occasions, until in an Order[10] dated May 8, 2007, the court a quo declared the case submitted for decision. But, on motion of Tagufa, said Order was recalled and set aside on May 28, 2007.[11] The court a quo then gave Tagufa an opportunity to present his evidence.

On June 26, 2007, Tagufa filed a Motion[12] for the appointment of a new set of commissioners. Acting on the motion, the court a quo ordered the Municipality to submit the names of its nominees.[13]

On November 6, 2007, the court a quo issued its Order[14] appointing the new commissioners, namely:

- Atty. Ma. Jeanette B. Layugan, Clerk of Court, as Chairperson;

- Mr. Bryan P. Garo, Realities Appraiser, Banko Magsaysay, Delfin Albano, Isabela, as Member; and

- Emmagemma A. Gaerlan of San Pedro, Tumaini, Isabela, as Member.

In the same Order, the court a quo directed the commissioners to meet on November 21, 2007 for the purpose of conducting the required hearing for the determination of just compensation.

On January 28, 2009, the panel of Commissioners submitted its Commissioner's Report,[15] recommending a just compensation of Ninety Pesos (P90.00) per square meter, thus:

It appears from the record that defendant bought the property in 1998 for P48,000.00 or P40.00 per square meter. The latest Tax Declaration of the property shows that the property is classified as an orchard with a market value of P7,680.00 or P6.40.00 (sic) per square meter. From the ocular inspection conducted taking into consideration the present classification of the property as well as the consequential benefits (the remaining property became corner lots) and the consequential damages (the whole property became divided), the commissioners recommend a just compensation of NINETY PESOS (P90.00) per square meter.

In an Order[16] dated November 24, 2009, the court a quo approved the Commissioner's Report, but erroneously computed the just compensation as P410,400.00 instead of P41,040.00.

Tagufa moved for a new trial,[17] while the Municipality moved for the clarification of the dispositive portion of the Order dated November 24, 2009.[18] According to Tagufa, the Commissioner's Report failed to take into consideration the value of the adjacent lots which have been converted into business establishments and it did not show how convenience facilities, public transportation, and the residential and commercial zoning could have added value to the lot being expropriated. Also, Tagufa claimed that there was no hearing conducted for the approval of the Commissioner's Report.

Meanwhile, the Municipality pointed out to the court a quo that the correct computation of the just compensation is Forty One Thousand and Forty Pesos (P41,040.00) after multiplying 456 square meters by P90.00 per square meter.

In an Order[19] dated February 22, 2010, the court a quo granted Tagufa's motion for new trial after realizing that Tagufa was not furnished a copy of the Commissioner's Report for him to file his objections, if any, in accordance with Section 7, Rule 67 of the Rules of Court.

In a subsequent Order[20] dated October 27, 2010, the court a quo once again directed the parties to submit names of their proposed commissioners to determine the just compensation. Only the Municipality was able to submit its nominees. Hence, in an Order[21] dated March 9, 2011, the court a quo appointed the following as Commissioners:

- Atty. Shirley M. Tagao-Gumiran, Clerk of Court, RTC, Branch 22, Cabagan, Isabela, as Chairperson;
- Engr. Florencio M. Baquiran, Municipal Assessor of Delfin Albano, Isabela, as Member; and
- Engr. Elpidio T. Acido, Municipal Engineer of Delfin Albano, Isabela, as Member.

In the same Order, the court a quo directed the Commissioners to submit the Valuation Report within sixty (60) days.

On June 8, 2011, the panel of Commissioners submitted its Commissioner's Report[22] dated June 7, 2011, recommending a just compensation of One Hundred Pesos (P100.00) per square meter, thus:

Therefore, after a thorough consideration of the foregoing, the undersigned respectfully recommend to the Honorable Court a just compensation of One Hundred (P100.00) Pesos per square meter or a total amount of

Forty Five Thousand Six Hundred (P45,600.00) Pesos for the four hundred fifty-six (456) square meters sought to be expropriated.

The Municipality did not interpose any objection to the recommendation of the Commissioners.[23] However, Tagufa filed his Objections,[24] claiming that he was not notified of the hearing for the determination of just compensation and that the Commissioners erred in not classifying the property as commercial in character.

In an Order[25] dated December 2, 2011, the court a quo approved the Commissioner's Report dated June 7, 2011 and submitted the case for decision. However, before the court a quo could render its decision, Tagufa filed on December 26, 2011 a Motion to Dismiss,[26] alleging that, instead of the original plan to put up government buildings on the property, the Municipality planted Mahogany trees which would allegedly take many decades to achieve full growth. The Municipality opposed the Motion to Dismiss,[27] stating that it had not abandoned the public purpose for which the subject property was sought to be expropriated and that it was only waiting for the final decision on the expropriation case before it could commence the construction of the buildings.

In an Order[28] dated March 23, 2012, the court a quo denied Tagufa's motion to dismiss.

Consequently, in its now assailed Decision dated March 30, 2012, the court a quo ordered the Municipality to pay Tagufa Seventy Two Thousand Nine Hundred and Sixty Pesos (P72,960.00) as just compensation for Tagufa's property. The amount is broken down as follows:

Value of land

=

P45,600.00

Legal interest

=

27,300.00

Total

=

P72,960.00

His Motion for Reconsideration having been denied in the Order[29] dated August 28, 2012, Tagufa is now before this Court, on ordinary appeal, and raising the following issues:

- I. Whether or not the Trial Court committed reversible error in approving the commissioners' report without hearing.
- II. Whether or not the Trial Court committed reversible error in not dismissing the complaint for expropriation.
- III. Whether or not defendant-appellant is entitled to moral damages.[30]

The Municipality opposes the appeal, claiming that the court a quo did not err in approving the Commissioner's Report and in not dismissing the complaint. It also avers that Tagufa is not entitled to moral damages.

The issue raised in this appeal is whether or not the court a quo committed reversible error in fixing the just

compensation in the sum of P72,960.00.

After a careful evaluation of the parties' arguments and the records, the Court rules to dismiss the appeal.

Expropriation is the exercise by the government of its authority and right to take private property for public use.[31] Expropriation proceedings have two phases:

The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, "of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint." An order of dismissal, if this be ordained, would be a final one, of course, since it finally disposes of the action and leaves nothing more to be done by the Court on the merits. So, too, would an order of condemnation be a final one, for thereafter as the Rules expressly state, in the proceedings before the Trial Court, "no objection to the exercise of the right of condemnation (or the propriety thereof) shall be filed or heard."

The second phase of the eminent domain action is concerned with the determination by the court of "the just compensation for the property sought to be taken." This is done by the Court with the assistance of not more than three (3) commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the commissioners would be final, too. It would finally dispose of the second stage of the suit, and leave nothing more to be done by the Court regarding the issue. . . .[32]

The first phase of expropriation is not in issue here. The public nature and purpose of the taking was settled by the court a quo in its Order of Expropriation dated June 27, 2001. The court a quo found merit in the declaration of the Municipality that the subject property sought to be expropriated was "needed for purposes of infrastructure development, particularly for the construction of a Liga ng Mga Barangay Multi-Purpose Hall, Day Care Center, and Senior Citizens and RIC Building" as stated in Municipal Resolution No. 2000-34. None of the parties appealed from the Order of Expropriation. Hence, it is final and conclusive against them.

What Tagufa is contesting, however, is the second phase, that is, the just compensation. According to Tagufa, he was not notified of the proceedings of the panel of commissioners when it deliberated on the just compensation and, even assuming that there was notice to him, the panel of commissioners erred in fixing the just compensation at P100.00 per square meter.

Tagufa's arguments are untenable.

The record shows that Tagufa was duly notified of the proceedings and was given every opportunity to comment or object to the report of the Commissioners. It cannot be emphasized enough that the expropriation case dragged on for eleven (11) years because of the delays at the instance of Tagufa. He sought several postponements of hearings, and, on his motion, the panel of Commissioners was reconstituted twice. Again, when the final panel of Commissioners was to be created, Tagufa delayed the proceedings by not submitting his nominees as required by the court. It appears that Tagufa would appear and actively participate only when he did not get what he wanted, especially on the matter of the just compensation.

It is well-settled that the essence of due process is simply an opportunity to be heard, an opportunity to explain one's side or an opportunity to seek for a reconsideration of the action or ruling complained of, and any seeming defect in its observance is cured by the filing of a motion for reconsideration.[33]

As earlier stated, Tagufa was given every opportunity to be heard in the expropriation case. In fact, the court a quo was very lenient to him despite the fact that he failed to appear in the scheduled hearings several times. While it may be true that the earlier panels of commissioners did not hold a formal or trial-type hearing when they

deliberated on the just compensation, Tagufa, nevertheless, filed—and was heard on—several motions for reconsideration, which discussed his objections to the recommendations of the panels of commissioners. First was on May 28, 2007 which led to the creation of a second panel of commissioners. The second was on December 29, 2009 which led to the creation of the third and final panel of commissioners. Lastly, Tagufa filed his objections to the final Commissioner's Report dated June 7, 2011. These objections were taken into consideration by the court a quo in its Decision dated March 30, 2012.

A formal or trial-type hearing is not at all times and in all instances essential. The requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice and hearing.[34] In the case at bar, Tagufa was afforded his right to be heard. The court reconstituted the panel of commissioners twice at Tagufa's instance. Tagufa also filed motions for reconsideration and his objections to the recommendations of the commissioners. Clearly, Tagufa was not denied his right to due process.

With regards to the determination of the just compensation in expropriation proceedings, the basis or criteria was stated in *Republic vs. Lensico*,[35] thus:

In expropriation proceedings, the value of the land and its character at the time it was taken by the government are the criteria for determining just compensation. As noted in *Ansaldo v. Tantuico*, there are instances when, as in the present case, the expropriating agency takes over the property prior to the expropriation suit, in which situation just compensation shall be determined as of the time of taking. *Commissioner of Public Highways v. Burgos* held that the price of the land when it was taken, not its value after the passage of time, represents the true value to be paid as just compensation. Hence, the value of the property upon its actual taking, subject of course to interest accruing from that time, should be the basis of the purchase price if Petitioner Cavite College of Fisheries opts to buy the property. (Emphasis supplied)

It is not denied that the Municipality took the property before it filed the complaint for expropriation. As stated by Tagufa in his Answer, the Municipality had fenced the property and had constructed a public road that traversed the same. Thus, applying *Republic vs. Lensico*, the basis of the just compensation should be the value at the time of the taking, that is, sometime before October 2000.

On this score, the Commissioner's Report states that the Fair Market Value (based on Ordinance No. 02, series of 1999) of the properties classified similar to the property of Tagufa was between Sixty Pesos (P60.00) and Ninety Four Pesos (P94.00) per square meter. The Report also noted that when Tagufa purchased the entire property (with an area of 1,200 square meters) sometime in 1998, he paid Forty Eight Thousand (P48,000.00) Pesos or for a unit price of Forty Pesos (P40.00) per square meter. Thus, according to the panel of Commissioners, the just and reasonable compensation is One Hundred Pesos (P100.00) per square meter or a total amount of Forty Five Thousand Six Hundred Pesos (P45,600.00).

Of course, the Commissioner's Report was subject to the court a quo's approval. The determination of just compensation for a condemned property is, after all, a judicial function.[36] As the court is not bound by the Commissioner's report, it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of its right of condemnation, and to the defendant just compensation for the property expropriated.[37] That is why, exercising its sound discretion, the court a quo imposed legal interest, computed at 6% per annum for eleven (11) years, or a total amount of P27,300.00, in addition to the principal recommended amount of P45,600.00, for a total of Seventy Two Thousand Nine Hundred Sixty Pesos (P72,960.00).

No valid or cogent reason has been raised or argued by Tagufa for this Court to overturn the computation made by the court a quo. The court a quo's decision is supported by the official documents from the Sangguniang

Panlalawigan and the Municipal Assessor's Office, as well as existing laws on expropriation. This Court, therefore, accords the court a quo's decision great weight.

As to the second issue, Tagufa claims that the expropriation case should be dismissed because the Municipality failed to erect the government buildings which was the supposed reason that the subject property was expropriated. Tagufa, therefore, wants the Court to set aside the order of expropriation because the intended public purpose did not allegedly materialize.

The Court is not persuaded.

Tagufa failed to show that the Municipality had, in fact, abandoned the public purpose or use for which the expropriation was made. The Municipality correctly explained in its Opposition to the Motion to Dismiss that the reason why the buildings could not yet be erected is the fact that the expropriation proceedings had not yet terminated and the Municipality had not yet acquired title over the property.

The effects of a final judgment in an expropriation case are stated under Sections 10 and 13, Rule 67 of the Rules of Court, thus:

SEC. 10. Rights of plaintiff after judgment and payment.—Upon payment by the plaintiff to the defendant of the compensation fixed by the judgment, with legal interest thereon from the taking of the possession of the property, or after tender to him of the amount so fixed and payment of the costs, the plaintiff shall have the right to enter upon the property expropriated and to appropriate it for the public use or purpose defined in the judgment, or to retain it should he have taken immediate possession thereof under the provisions of section 2 hereof. If the defendant and his counsel absent themselves from the court, or decline to receive the amount tendered, the same shall be ordered to be deposited in court and such deposit shall have the same effect as actual payment thereof to the defendant or the person ultimately adjudged entitled thereto.

x x x

SEC. 13. Recording judgment, and its effect.—The judgment entered in expropriation proceedings shall state definitely, by an adequate description, the particular property or interest therein expropriated, and the nature of the public use or purpose for which it is expropriated. When real estate is expropriated, a certified true copy of such judgment shall be recorded in the registry of deeds of the place in which the property is situated, and its effect shall be to vest in the plaintiff the title to the real estate so described for such public use or purpose.

Clearly, it is premature—if not baseless—for Tagufa to say that the Municipality has abandoned the public purpose for which his property was taken. As clearly provided under Rule 67 of the Rules of Court, a judgment in the expropriation case and payment of the just compensation are needed before the Municipality can definitively enter the property and commence the construction of the planned government buildings.

On the last issue, Tagufa claims that he is entitled to moral and exemplary damages, including attorney's fees because the Municipality had illegally deprived him of his property.

The claim for damages is without merit.

Damages are the pecuniary compensation, recompense, or satisfaction for an injury sustained, or as otherwise expressed, the pecuniary consequences which the law imposes for the breach of some duty or the violation of some right.[38] In *BPI Express Card vs. Court of Appeals*,[39] the Supreme Court explained:

x x x in order that a plaintiff may maintain an action for the injuries of which he complains, he must establish that such injuries resulted from a breach of duty which the defendant owed to the plaintiff—a concurrence of injury to the plaintiff and legal responsibility by the person causing it. The underlying basis for the award of tort damages is the premise that an individual was injured in contemplation of law. Thus, there must first be a

breach of some duty and the imposition of liability for that breach before damages may be awarded; and the breach of such duty should be the proximate cause of the injury.

In the case at bar, Tagufa failed to show that he has suffered injury in the contemplation of law and that this injury is the proximate result of the illegal action of the Municipality. Clearly, he is not entitled to damages, whether moral or exemplary, or attorney's fees in the concept of damages.

WHEREFORE, the instant appeal is DISMISSED for lack of merit and the Decision dated March 30, 2012 issued by the Regional Trial Court of Cabagan, Isabela, Branch 22, in Special Civil Action No. 22-931 is AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Zalameda and Diy, JJ., concur.

[1] Rollo, pp. 46-51.

[2] Record, p. 2.

[3] Record, p. 17.

[4] Record, p. 29.

[5] Record, p. 31.

[6] Record, p. 57.

[7] Record, p. 73.

[8] Record, p. 79.

[9] Record, p. 75.

[10] Record, p. 125.

[11] Record, p. 126.

[12] Record, p. 135.

[13] Order dated October 10, 2007; Record, p. 150.

[14] Record, p. 156.

[15] Record, p. 170.

[16] Record, p. 182.

[17] Record, p. 186.

[18] Record, p. 195.

[19] Record, p. 202.

- [20] Record, p. 216.
- [20] Record, p. 245.
- [22] Record, p. 260.
- [23] Comment dated June 24, 2011; Record, p. 268.
- [24] Record, p. 269.
- [25] Record, p. 278.
- [26] Record, p. 281.
- [27] Comment and/or Opposition dated February 29, 2012; Record, p. 289.
- [28] Record, p. 298.
- [29] Record, p. 359.
- [30] Appellant's Brief, p. 27; Rollo, p. 33.
- [31] Barangay San Roque vs. Heirs of Pastor, G.R. No. 138896, June 20, 2000.
- [32] Ibid., citing National Power Corporation vs. Jocson, 206 SCRA 520, 536 (1992).
- [33] Zacarias vs. National Police Commission, G.R. No. 119847, October 24, 2003.
- [34] Ibid.
- [35] G.R. No. 158919, August 9, 2005.
- [36] Republic vs. Intermediate Appellate Court, G.R. No. 71176, May 21, 1990.
- [37] Ibid.
- [38] Tolentino, Arturo M. Commentaries and Jurisprudence on the Civil Code of the Philippines, Volume Five, 2002 Reprint, p. 632, citing 8 R.C.L. 420-422.
- [39] G.R. No. 120639, September 25, 1998.

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