

**PROVINCE OF ILOCOS NORTH, PLAINTIFF AND APPELLANT, VS.
COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, DEFENDANT AND
APPELLANT.***G.R. No. L-7361. April 20, 1956*

Ponente: MONTEMAYOR, J.

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This Action, Civil Case No. 1642, Was Commenced By The Province Of Ilocos Norte In The Court Of First Instance Of That Province, Under The Provisions Of Sections 2106-(f) Of The Revised Administrative Code And Rule 69.Of The Rules Of Court, To Expropriate Lot No. 2191 Of The Laoag Cadastral Survey Covered By Transfer Certificate Of Title No. 769, Office Of The Register Of Deeds Of Ilocos Norte, Consisting Of 2,214 Square Meters And A Camarin Of Strong; Materials And A Brick Fence, Belonging To The Defendant Compañia General De Tabacos De Filipinas (Later To Be Referred To As Tabacalera). Plaintiff Intends To Use Defendant's Property For The Construction Of, An Office Building To Be Occupied By The Office Of The District Engineer Of Plaintiff and The Personnel Of Said Office'; For The Construction Of A Motor Pool Yard; For The Construction Of A Bodega And Storerooms; For The Establishment Of A Garage For A Plaintiff's Motor Vehicles And For The Establishment Of A Mechanic's Shop." (Defendant's Brief As Appellant, Page 2). Plaintiff Was Duly Authorized By The Office Of The President To Institute These Condemnation Proceedings.

Tabacalera In A Motion To Dismiss, Objected To The Expropriation, Alleging That In Its Tobacco Business, It Needed And Had Been Using The Property, Presumably For Storage Purposes, While The Plaintiff Had No Real Or Compelling Necessity For The Use Of Said Property,¹ Because It Still Had Enough Space Within The Compound Of The Capitol Building Within Which To Build An Office For The Use Of The Personnel Of The Engineer's Office. Defendant Also Claimed That In Case The Property Was Expropriated, Being A Sociedad Anonima Organized Under The Code Of Commerce Of Spain Of 1829, It Would Not Be Able Under The Law To Acquire Any Other Property In Substitution Thereof And Would Find Itself Completely Unable To Continue Its Business In Ilocos Norte And Will Thereby Suffer Damages And Losses Amounting To Not Less Than P100,000.

On Plaintiff's Motion, It Was Placed In Possession Of The Property On October 23, 1952. Acting Upon The Motion To Dismiss The Complaint Filed By Tabacalera, The Trial Court Issued An Order Dated January 26, 1953, Wherein It Held That Plaintiff Had A "Lawful Right To Take And Expropriate The Property Described In The Complaint Upon The Payment Of Just Compensation." In The Same Order The Trial Court Appointed Three Commissioners To Ascertain And Report To The Court On The Just Compensation For The Property Sought To Be Taken.

Extensive Evidence Was Presented By Both Plaintiff And Defendant Before The Commissioners, The Latter Even Making An Ocular Inspection Of The Property In Question. In A . Unanimous Report Signed By The Three Commissioners Dated May 15, 1953, They Found And Fixed The Value Of The Land To Be P13,284, That Is, At The Rate Of P6 Per Square , Meter And The Value Of The Camarin And The Brick.Fence To Be P11,520 Or A

Total Of P24,804. Both Parties Filed Objections To Said Report, And Considering Said Objections, the Court In A Decision Dated August 18, 1953, Reduced The Price Of P6 Found By The Commissioners Per Square Meter To P5, Thereby Reducing The Value Of The Jand To P11,070. The Trial Court Fixed The Value Of The Eamarin, At P10,425.46 On The Basis Of The Estimate Of Salvage Value Made By Nemesio Petel And Pedro Bracerros, Construction Foremen, Exhibit "O", And The Value Of The Brick Fence At P500 Or P10,925.46 For The Eamarin And The Fence, Or A Total Of P21,995.46 For The Whole Property. Both Parties Appealed From That Decision.

In The Appeal, Plaintiff Claims That On The Basis Of The Tax Declarations Of The Property In Question, Which Under Commonwealth Act No. 530 Should Be Considered In Fixing The Value Of Properties For Purposes Of Expropriation, The Values Fixed By Both The Commissioners And The Court Were Too High; Tabacalera On The Other Hand, Contends That Its Property Has Much-More Value Than That Fixed By The Commissioners And The Court And Cited As Part Of Its Evidence A Supposed Offer To Buy The Same Property Made By The St. William's College In The Year 1948 For The Sum Of P40,000. It Also Claims That The Plaintiff Was Not Duly Authorized To Institute Or At Least To Continue With The Condemnation Proceeding's For The Reason That The Authority Given To It By The Office Of The President Was Subsequently Withdrawn; And That Furthermore, Assuming That Plaintiff Was Duly Authorized To Expropriate, There Was No Real Necessity For The Expropriation.

We Are inclined To Agree With The Plaintiff In Its Contention That Defendant Should Not Now Question The Authority Of Plaintiff To Expropriate Nor The Necessity Therefor For The Reason That Defendant Failed To Appeal From The Order Of January 28, 1953. According To Its Notice Of Appeal, It Was Appealing From The Judgment Of August 18, 1953 And The Order Of October 15, 1953, Denying Its Motion To Set aside The Judgment And For New Trial. It Said Nothing About The Order Of January 26, 1953, Wherein As Already Stated, The Trial Court Found And Held That The Plaintiff Was Duly Authorized To Institute And Continue With The Condemnation Proceedings And That There Was Necessity For Expropriation. But Even Assuming That Defendant Under Liberal Interpretation, May Yet Raise This Question Of Authority And Necessity For Expropriation, We Agree With The Trial Court That Although The Office Of The President By Reason Of The Protest Filed With It By Tabacalera, Requested The Plaintiff To Suspend The Condemnation , Proceedings Until The Protest Was Finally Decided, Nevertheless, Later When The Office Of The President Found That The Proceedings Were Too Far Advanced, It Practically Withdrew Its Request For Suspension And Even Informed The Tabacalera That It Felt That It Could No Longer Intervene , In The Proceedings. (Annex "A", Page 230, Defendant's Record On Appeal.)

Now As To The Necessity For The Expropriation, We Reproduce With Favor The Pertinent Portion Of The Order of The Trial Court Of January 26,-1953, To Wit:

"The Secretary Of The Provincial Board Testified That The Office Of The District ,Engineer Needs Expansion. Engineer Aurelio Coloma Testified That There Are Twenty (20) Employees Of The Office Of The District Engineer Who Cannot Be Accommodated In The Present Building Of The Said Office.; That The Said Office Owns Four (4) Automobiles; Two Jeeps, Twenty (20) Trucks, Cranes, Road Rollers And Other Heavy Equipments And The Said Motor Vehicles Have No Parking Place In The Present Office Of The Office Of The District Engineer, So That They Have To Be Parked In The Streets;' That The Office Of The District Engineer Contemplates Building Mechanic Shop\$ And Repair Shops For Its R Many Motor Vehicles And Equipment; That There Are So Many Equipment And Materials Belonging To The District Engineer's Office Which Cannot Be Accomodated In Its Present Site, Hence, The Said Engineer's Office Has To Lease Private Lots To Accommodate Those Shops And Motor Vehicles."

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"Counsel For Defendant Contends That Plaintiff's Own Evidence Positively Show That It Has Enough Ground Upon Which To Construct Buildings, To House All Its Centralized Offices And He Cites The Testimony Of Engineer Aurelio Coloma To The Effect That There Is Sufficient Space Behind The Provincial Capitol Building On Which Additional. Office Buildings Can He Constructed; That If The Semi-Permanent office Buildings Now Existing Behind The Provincial Capitol Were Improved And Additional Floors Were Constructed And Added To The Existing Buildings, The Same Would Be Enough To House All The. Centralized Offices Of The Provincial Government Of Ilocos Norte. But Mr. Coloma Continuing¹ His Answer To The Question Of he Counsel Said: "For Office Personnel, The Building That May Be Constructed Behind The Provincial Capitol may be able To Accommodate All The Personnel Of The Provincial Government. But For The Building necessary For Repairshops, Bodegas And Storage Buildings, That Would not be enough." (P. 37, t. s. n.),"

In this Connection, Plaintiff Correctly Said The Following:

"In Addition To the observation of The Court Stated In The Foregoing: Order, May we Add That It Would Not Be Pleasant To Crowd Office Buildings, Mechanic Shops, Repair Shops, Bodegas And Garages In The Same Compound. The Noise Created By The, Mechanic Shops And Repair .Shops Alone Would Be Sufficient To Disturb The Entire Office Personnel In The Provincial Capitol. The Greatest Inconvenience Would Be Caused To The office of The. Provincial Fiscal Which Heeds An Atmosphere of calm And Quiet To Properly Perform Its Duties Of Study And Research. The Noise Would Also Disturb Conferences ', And Sessions Of The Provincial Board."

And It Cites The Following Authority—

Necessity does Not Mean An Absolute But Only A Reasonable Necessity, Such As Would Combine The Greatest Benefit To The Public With The Least Inconvenience And Expense To The Condemning: Party And Property Owner Consistent With Such Benefits. (20 Corpus Juris,' 630-632; City Of Manila vs. Arellano Law College, 85 Phil., 663.)

We Agree With The Trial Court And The Plaintiff That The Province Of Ilocos Norte Really Needs The Property In Question And So We Hold That Expropriation Is Justified.

To Us The More Important Question Involved Is The Fixing Of The Value Of The Property, Specially Of The Land. We Cannot Agree With The Plaintiff That Under Commonwealth Act 530, The Value Of The Property To Be Condemned Should Be Based Exclusively On Those Stated In The Tax Declarations. The Very Act Invoked Says That The Statement Of The Value of The Property Made By The Owner In The Tax Declaration . Shall Constitute, A prima facie Evidence Of The Real Value Of The Property In Expropriation Proceedings By The Government And Its Instrumentalities. In Other Words, It Is not Conclusive Evidence. We Have Examined The Numerous Deeds Of Sale Presented By Both Parties Intended To Prove The Value Of Land Near And Around The Property In Question. Much Of Said Evidence We Found To Be Unsatisfactory, Either Because The Sales Therein Mentioned Were Made Long Before The Expropriation, Especially When We Consider The Trend Of Increase In Real Estate Values During The Last Few Years; Also, Because In Many Of Those Deeds Of Sale, There Were Improvements On The Land Such As Buildings, And It Is Difficult, If Not Impossible To Fix The Values Or Prices Of The Land And The Improvements Thereon Separately. But We Find That The Deeds Of Sale Shown By Plaintiff's Exhibits "X", "Z", And "Aa" And The Deeds Of Sale, Defendant's Exhibits "13" And "15", As Tabulated By Us To Show The Dates Of Sale, Price Per Square Meter And Registration Or Non-Registration Of The Parcels Sold, Are Quite Pertinent And Helpful.

Exhibit "X"— May 12, 1952 P6.98 —Not Registered

Exhibit "Z"— May 12, 1952 P7.19 —Registered

Exhibit "AA"— July 6, 1849 P6.84 —Registered

Exhibit "13"— May 19, 1949 P9.31 —Not Registered

Exhibit "15"— November 11, 1937 ... P10.905—Not Registered

On The Basis Of These Five Exhibits, We Find The Average Price Per Square Meter To Be Around P7.92 Which We Fix In Round Numbers As P 8.00. In Addition To This Evidence, We Also Have The Location Of The Property And Its Proximity To The Capitol As Shown By The Plan, Exhibit "F". It Is Right Next To The Capitol Building Or Compound, Separated From It Only By A Street. Furthermore, It Is On The Side Of The Capitol Building Compound And Not Behind It. Besides, The Property Is Registered Under The Torrens System And So Is Relatively More Valuable.

As Regards The Value Of The Improvements, We Are Satisfied With The Appraisal Made By The Three Commissioners. They Made Detailed Estimates Of The Different Portions Of Camarin Fixing Its Entire Value At P11.070 And The Brick Fence At P450 Or A Total Of P11,520. The Estimate Made By The two Foremen Aforementioned Which Was Accepted By The Court, Is Not Much Different, The Discrepancy Being Only About P1,000. In This Connection, We Note That The Trial Court In Accepting The Estimate By The Two Foremen In The Amount Of P10.425.46, It Thought That It Referred Only To The Building Or Camarin And So Added To It The Amount Of P500 As The Value Of The Brick Fence, When In Reality The Estimate Of The Two Foremen Already Included The Brick Fence.

Besides The Compensation For The Actual And Market Value Of The Property Appropriated, The Defendant Claims Consequential Damages, Saying That It Is Being Deprived Of Its Camarin Which It Is Using In Its Business, And That For The Government To Deprive It Of Its Use, It Must Make Due Compensation For The Consequent Damage. According To The Evidence, However, The Defendant Has Other Camarins Of Equal Size And Capacity In Nearby Towns Of Iloilo Norte To Which It Could Send The Tobacco Bought By It For Packing Or Baling. Furthermore, It Is Not Entirely Correct To Say That The Defendant Had Always Been Using The Property And Badly Needs It In Its Business Because Several Times It Had Rented Said Property, Particularly The Camarin To Other Parties For Industrial Purposes And School Purposes; That At One Time, The Office Of The District Engineer Of Ilocos Norte Had Even Used Part Of The Camarin As Sublessee; And That There Was A Time When The Property Was Rented And Used As A Cinema Studio And Boxing Stadium.

In Conclusion, We Find And Hold That The Plaintiff Herein was Duly Authorized To Initiate And Prosecute These Condemnation Proceedings, And That The Condemnation Was Justified Because It Needed The Property In Question For Its Use. We Also Find And Fix The Fair Market Value Of The Land In Question At P17.712 And The Camarin And Fence At P11.520, Or A Total Of P29,232, Which Sum The Plaintiff Is Directed To Pay To The Defendant With Legal Interest From The Time That It Took Possession Of The Property. No Costs.

Paras, C. J., Bengzon, Reyes, A., Jugo, Bautista, Angelo, Labrador, Concepcion, Reyes, J. B. L. and Endencia, JJ., Concur.

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