

**HERMENEGILDO BELEN, GREGORIO ROSARIO, VICTORINO GARCIA,
ANTONIO M. BELEN AND IGLESIA NI KRISTO, INC., PETITIONERS, VS.
HONORABLE COURT OF APPEALS, AGUSTIN SAPERA, BASILISA
DORIA...**

G.R. No. L-45390. April 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This litigation started in the Court of First Instance of Pangasinan where, after trial, the petitioners were adjudged as the owners of the property known as Lot 640 of the Cadastral Survey of Dagupan, Pangasinan. The case was elevated to the Court of Appeals which reversed the decision of the trial court and ordered the following:

"In view of the foregoing, the appealed decision is hereby set aside and another one entered whereby the plaintiffs (now private respondents) are declared the owners of Lot 640 of the Cadastral Survey of Dagupan, Pangasinan, and that they are hereby given a period of thirty (30) days from receipt of a copy of this decision to exercise their option to either indemnify the defendants (now petitioners) for the improvements on the land or to sell the 1,494 square meter portion of Lot 640 where the said improvements stand consisting of the central office of the Iglesia Ni Kristo and the houses of the other defendants, namely: Antonio M. Belen, Gregorio Rosario and Victoriano Garcia. If the plaintiffs choose to sell the land and disagreement ensues as to the terms thereof, then the Court a quo is hereby directed to intervene and fix the terms of the sale." (Rollo, p. 43)

The private respondents opted to sell their property to petitioner Iglesia Ni Kristo at P200.00 per square meter while the latter offered to buy the same at P10.00 per square meter. Since the parties could not agree on the fair market value of the property, the trial court, in accordance with the directive of the appellate court, intervened and fixed the fair market value of the property at P55.00 per square meter. This value was based on the findings and reports of three appraisers appointed by the court with the consent of the parties, namely: Mr. Guillermo Velasquez (then Senior Deputy Assessor of Dagupan City); Lubin de Vera (then Provincial Assessor of Pangasinan); and Rogelio Mamaril of the Iglesia Ni Kristo, and on the evidence presented by both parties as stated in the order of the court dated March 26, 1976.

Not satisfied with the market value fixed by the trial court, the petitioners elevated the case to this Court by way of a petition for certiorari with preliminary injunction.

On August 23, 1976, we issued a resolution referring the petition to the Court of Appeals "since it involves question of fact, i.e. the factual determination of the value of the land in litigation pursuant to its previous decision."

The Court of Appeals, however, denied due course to the petition and dismissed the same outright on the ground that appeal was the proper remedy and not a petition for certiorari.

The petitioners filed a motion of reconsideration but it was one day late. The appellate court, therefore, denied the motion on the ground that its questioned order had already become final and executory. Hence, this case was once more elevated to this Court with the following assignment of errors:

I

"THE RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DISMISSING OUTRIGHT THE PETITION REFERRED TO IT BY THIS HONORABLE SUPREME COURT.

II

"EVEN AFTER BEING APPRISED THAT THE ONE-DAY TARDINESS OF THE FILING OF THE MOTION FOR RECONSIDERATION WAS DUE TO SICKNESS OF PETITIONER'S COUNSEL, DULY SUPPORTED BY A SWORN MEDICAL CERTIFICATE, THE RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN BASING ITS DENIAL ON CONJECTURE OR SURMISE.

III

"THE RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN NOT APPLYING PRESIDENTIAL DECREE NO. 76 IN DETERMINING THE FAIR AND CURRENT MARKET VALUE OF THE LAND IN QUESTION BUT RESORTED TO TECHNICALITY, THEREBY DEFEATING THE COMMISSION REPOSED ON IT BY THE HONORABLE SUPREME COURT TO DETERMINE THE VALUE OF THE LAND." (Rollo, p. 9)

We treat the first and second assignments of errors jointly.

Petitioners contend that the sufficiency or insufficiency of their petition had already been passed upon by this Court when it referred the same to the Court of Appeals and that it was, therefore, an error on the part of the appellate court to dismiss the petition on the ground that appeal was the proper remedy.

The petitioners misinterpret the decision of the Court of Appeals. The petition was found insufficient in form and substance because it failed to satisfy the requirement for the issuance of a writ of certiorari, namely that the trial court acted without jurisdiction or with grave abuse of discretion. In effect, the respondent court was complying with the Supreme Court resolution dated August 23, 1976. It found the factual determination by the trial court as issued with jurisdiction and without any grave abuse of discretion. It was therefore, an affirmance of the factual findings of the court below. If the petitioners had filed an appeal instead of a petition for certiorari, then the correctness of the trial court's factual determination would have been tested by a different yardsticks. The problem of the petitioners lies in their failure to file a timely appeal. Certiorari cannot take the place of a lost appeal.

We must emphasize that this petition is different from a situation where we send a case to the Court of Appeals instructing it to make specific determinations and instead of following this Court's order, the appellate court decides that it has no jurisdiction. The rule in *Conde v. Intermediate Appellate Court* (144 SCRA 144) would then apply. In that case, we remanded the petition to the appellate court for decision on the merits but despite our resolution, the said court still dismissed the petition for lack of jurisdiction. We stated:

"We need not emphasize the rule that this Court decides appeals which only involve questions of law and that 'it is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to receiving errors of law that might have been committed by the lower court.' (*Banigued v. Court of Appeals*, 127 SCRA 596, 601; citing *Tiongco v. de la Merced*, 58 SCRA 89). It was, thus, totally pointless for the Intermediate Appellate Court to delve into the question of whether or not it has jurisdiction to pass upon the merits of the petition which then alleged the perpetration of fraud by one of the parties in the original case, and which thereby called for a review of the factual findings of the court. Furthermore, the fact that this Court already remanded the case to the appellate court for decision on the merits should have

prompted the latter to limit its decision only to the merits of the case."

The petitioners also contend that the trial court's decision which was affirmed by the appellate court when it dismissed the petition is tainted with error because it placed the fair market value of the property at P55.00 per square meter which was the average of the assessments of the three appraisers who gave the following assessments: Velasquez - P50.00 per square meter; de Vera - P100.00 per square meter; and Mamaril - P15.00 per square meter, notwithstanding the fact that under Presidential Decree (P.D.) No. 76, the basis of just compensation "shall be the current and fair market value declared by the owner or administrator or such market value as determined by the assessor whichever is lower." Following this decree, they state that the assessed value of the property should be placed only at about P17.56 per square meter as determined by the declarant's sworn statement before the city assessor.

In the case of Export Processing Zone Authority v. Dulay, (149 SCRA 305) we have already declared the provisions of P.D. No. 76 and all its subsequent amendatory decrees (P.D. Nos. 464, 794 and 1533) on just compensation, unconstitutional and void for being violative of due process. We further ruled that "the valuation in the decree may only serve as a guiding principle or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount. x x x" It is a judicial function to ascertain just compensation.

In the case at bar, the trial court considered all the assessments of the appraisers who were chosen in consultation with the parties and based the valuation of the property on said assessments. We find the valuation just and reasonable. On this score the petition must, perforce, fail.

WHEREFORE, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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