

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HON. ERNESTO P. PAGAYATAN, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 46, SAN JOSE, OCCIDENTAL MINDORO AND JOSEFINA S. LUBRICA, ...

Ponente: ENRIQUEZ, JR., J.

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ENRIQUEZ, JR., J.:

This is a petition for certiorari with application for issuance of a temporary restraining order and/or writ of preliminary injunction under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to set aside the Orders dated March 4, 2005 and -December 8, 2005, issued by the Regional Trial Court (RTC), Branch 46, San Jose, Occidental Mindoro, in Civil Case No. R-1390, their respective dispositive portions are:

“The foregoing considered and as prayed for by the respondent-movant, The Land Compensation Department, Land Bank of the Philippines, is hereby directed to deposit the preliminary compensation as determined by the PARAD, in cash and bonds in the total amount of Php71,634,027.30, with the Land Bank of the Philippines, Manila, within seven (7) days from receipt of this order, and to notify this Court of compliance within such period.

SO ORDERED.”

After going over the parties’ pleadings and the cases cited in support thereto, the court resolves, as follows:

- There being no reversible error in the order of the court dated March 04, 2005, the court denies the motion for reconsideration.
- The motion to amend petition to implead the Department of Agrarian Reform for the purpose of preparing the claim folder is likewise denied for being unnecessary in the matter of land valuation.

SO ORDERED.”

The facts of the case as culled from the records are:

Josefina S. Lubrica (hereafter Lubrica), in her capacity as assignee of Federico Suntay, filed a petition for summary determination of just compensation against Land Bank of the Philippines (LBP) and the Department of Agrarian Reform (DAR) with the Office of the Provincial Agrarian Reform Adjudicator (PARAD).

The property subject of the claim for just compensation is irrigated/unirrigated rice and corn land with an aggregate area of 431.1407 hectares, more or less, and is located within the Suntay Estate covered by TCT No. T-31 (1326) with a total area of 3,682.0286 hectares.

The LBP and DAR failed to file their respective answers. During the hearing, the parties were ordered to submit their respective position papers attaching all the documentary evidence in support of their claims and defenses.

After due proceedings, on March 31, 2003, the PARAD rendered its decision, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered:

- Fixing the preliminary just compensation for 431.1407 hectare property at P166,150.00 per hectare or a total of P71,634,027.30.
- Directing the Land Bank of the Philippines to immediately pay the aforesaid amount to the Petitioner.
- Directing the DAR to immediately comply with all the applicable administrative requirements so that the subject property may be formally distributed and turned over to the farmer beneficiaries thereof, in accordance with the Decision of the DARAB Central in DARAB CASE NO. 2846.

No cost.

SO ORDERED.”

LBP’s Motion for Reconsideration thereto was denied in the Order dated December 15, 2003.

On March 5, 2004, the LBP filed a petition for fixing just compensation with the RTC.

Pending resolution of the petition, Lubrica filed a motion to deposit the preliminary valuation fixed by the PARAD pursuant to Section 16 (e) of Republic Act 6657.

On November 3, 2004, LBP filed an Amended Petition. Meanwhile, Lubrica moved for early resolution of the motion to deposit the preliminary valuation.

On March 4, 2005, the RTC issued an Order in the terms earlier set forth. The Motion for Reconsideration thereto was denied in the Order dated December 8, 2005. Hence, this petition for certiorari raising the following issues:

- RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ORDERING THE DEPOSIT (I.E., RELEASE OF THE COMPENSATION FIXED BY THE PROVINCIAL AGRARIAN REFORM ADJUDICATOR (PARAD) WITHOUT THE DAR DOCUMENTATION OR CLAIM FOLDER REQUIRED FOR THE PROCESSING OF COMPENSATION CLAIMS FOR LANDS UNDER PD 27.
- RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO IMPEAD THE DEPARTMENT OF AGRARIAN REFORM (DAR), THE PARTICIPATION OF WHICH IS INDISPENSABLE INASMUCH AS THE DAR IS RESPONSIBLE FOR CREATING A CLAIM FOLDER OR DOCUMENTATION OF THE SUBJECT PROPERTY.

The petition is without merit.

In ordering the deposit of the preliminary compensation fixed by the PARAD, the RTC ratiocinated, thus:

“The lands were already taken and distributed by the DAR before the summary proceedings were conducted by the PARAD. Private respondents invoking Section 16 (e) of RA 6657 filed this motion to require the Land Bank to deposit the provisional compensation because the filing of the Land Bank of the present petition will unduly delay the payment of the compensation on the lands. Any delay in the deposit of the provisional compensation will be very unjust and oppressive to the landowners who suffered the loss of their properties for 30 years now without being compensated. This Court finds merit in the motion, the property having been taken for more than thirty (30) years without paying the landowners. The Supreme Court in the case of Land Bank of the Philippines vs Court of Appeals, Pedro Yap, et. al. (249 SCRA 149, 160-161) held as follows: “Hence, we find it necessary to distinguish between provisional compensation under Section 16 (e) and final compensation under Section 18 for purposes of exercising the Landowner’s right to appropriate the same. The immediate effect in both situations is the same the landowner is deprived of the use and possession of his property for

which he should fairly and immediately be compensated.”

Under Section 16 (e) the payment of the provisional compensation determined by the PARAD in the summary administrative proceedings under Section 16 (d) should precede the taking of the land. In the present case, the taking of the property even preceded the mere determination of a provisional compensation by more than 30 years (Order dated March 4, 2005, pp. 1-2, Rollo, pp. 33-34).”

However, in assailing the said Order, LBP claimed that the DAR did not properly document the land subject matter of this case. The DAR has not forwarded the claim folder to the LBP. The claim folder constitutes the legal basis for LBP to preliminarily determine the valuation of CARP covered lands and process compensation claims.

On this argument, the PARAD ruled:

“Although it is true that there is no claim folder as of date, because of the failure of DAR to comply the DARAB Decision, dated June 13, 1997 which ordered the DAR to comply with administrative implementation of P.D. 27, it is also true that the landowners had been dispossessed of his property as early as 1972. The failure of the DAR personnel to comply with their duty as directed by the DARAB through no fault of the landowners is undeniable.

The landowner cannot, therefore, be blamed for the short-comings (sic) of the government.

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The right of the landowner to prompt payment of just compensation has been reiterated in the decision of the Supreme Court in the case of land Bank of the Philippines vs. Court of Appeals, Pedro Yap, et al. G.R. No. 118712, October 6, 1995, and quoted as follows: “Without prompt payment, compensation cannot be considered “just” for the property owner is made to suffer the consequence of being immediately deprived of his land being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss.”

To suspend the payment of compensation by reason of the fact that the government has been remiss in its duty to prepare the claim-folder covering the subject property would in effect punish the landowner for failure of the expropriator to do its job, so to speak. Hence, this Board rules that the present case cannot be considered as premature especially so that the property was taken as early as 1972. On the other hand, it is the government through the DAR that has been sleeping on its job (Decision dated March 21, 2003, Rollo, pp. 52-53).”

Indeed, the preparation and production of the claim folder is between the DAR and LBP for which the landowner is not a privy thereto. The claim folder is not indispensable in fixing the just compensation due the landowner, the factors to be considered thereto being (a) the average gross production and (b) the area of coverage.

The mere denial of LBP’s motion to implead DAR as party to the case falls short of grave abuse of discretion. It is noted that LBP wanted to implead DAR as party merely for the purpose of preparing and submitting the claim folder. The RTC ruled that the same is unnecessary in the matter of land valuation. The act of the RTC in denying LBP’s motion is a matter of judgment. That judgment may or may not have been erroneous, but LBP has not shown that the same was tainted with grave abuse of discretion.

Grave abuse of discretion exists when an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility (Bedruz vs Sandiganbayan, 477 SCRA 286).

The soundness of the Order of the RTC in denying to implead the DAR in the petition for fixing just

compensation is a matter of judgment with respect to which the remedy is an ordinary appeal. Errors of judgment committed by the lower court are not correctable by a petition for certiorari under Rule 65 (*China Banking Corp vs Mondragon Int'l. Phils., Inc.*, 475 SCRA 332).

WHEREFORE, premises considered, the petition is hereby **DENIED DUE COURSE** and subsequently **DISMISSED** for lack of merit.

SO ORDERED.

Jacinto, (Chairman) and De Leon, JJ., concur.

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