

CITY OF DAVAO, PLAINTIFF-APPELLANT, VS. SANTIAGO P. DACUDAO ET AL., DEFENDANTS, SANTIAGO P. DACUDAO, DEFENDANT-APPELLANT.

G.R. No. L-3741. May 28, 1952

Ponente: REYES, J.

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REYES, J.:

This is a condemnation proceeding for the acquirement of two parcels of land needed by the city of Davao for park and playground purposes. The land lies near the city hall and plaza of the city and belongs to various persons, among them, the herein appellant Santiago P. Dacudao.

The right of the plaintiff to expropriate having been upheld, the court issued an order putting the plaintiff in possession of the land after making the required deposit and appointing three commissioners to appraise the compensation to be paid.

After hearing the parties the commissioners, on March 19, 1949, submitted their report recommending the following valuation for the properties to be expropriated:

"Avaluacion

Totales

"Terreno de Santiago P. Dacudao

P 146,440.00

"Dos casas y una pequeña bodega

14,000.00

"Por la suspension de las obras de su nuevo edificio

4,242.45

P164,682.45

"Terreno de los esposos Teofila Laud y Vicente Guinoo

P 27,625.00

"Edificio levantado en el mismo

68,000.00

95,625.00

"Casa de Dominador Zuño

P 1,600.00

1,600.00

"Casa de Miguel N. Lanzona

P 7,500.00

7,500.00

"Casa de Eriberto A. Unson

P 4,000.00

4,000.00

"Casa de Dominador Magabilin

P3,300.00

3,300.00

"Casa de Victoria Babao

P 800.00

800.00

"Casa de Segundina L. Martije y Lucio Martije

P 1,200.00

1,200.00

GRAN TOTAL

P 278,707.45"

Both plaintiff and the defendant Dacudao filed objections to the commissioners report. Plaintiff contended that the valuation of the properties of Dacudao and the spouses Guino-o should be as follows:

Santiago Dacudao:

Land P 20,700.00 (P5.65 per sq. meter)

Improvements 6,000.00 P 26,700.00

Spouses Teofila Laud and Vicente Guino-o:

Land P 4,970.00 (P4.50 per sq. meter)

Improvements 36,900.00 P41,870.00

Dacudao, on his part, contended that the reasonable compensation for his property should be as follows:

For the land, at least P65.00 a square meter or a total of P237,965.00;

For the buildings, P20,000.00; and

For the consequential damages, at least P4,242.35

Later the plaintiff filed a motion to set aside the commissioners report and to have a new set of commissioners appointed. Dacudao objected to this motion and asked that the report of the commissioners be resolved in accordance with the evidence of record. Denying plaintiff's motion, the court rendered judgment, modifying the report of the commissioners by giving the following valuation to the properties of Dacudao and the spouses Guino-o:

"1. Santiago Dacudao:

673.92 sq. m.(commercial)

at P26.00 per sq. m. P 17,521.92

2,987.08 sq. m. (residential)

at P20.00 per sq. m. 59,741.60

Improvements 8,000.00

(Damages denied)

Total .. P 85,262.92

"2. Teofila Laud-Guino-o:

1,105 sq. m. at P20.00

per sq. meter 22,100.00

Improvements 50,000.00

Total .. P 72,100.00"

From this decision the defendant Dacudao has appealed to this Court. And so has the plaintiff in so far as the compensation awarded to Dacudao is concerned.

Brushing aside the technical objection urged in plaintiff's first specification of error to the effect that there has been no formal hearing on the commissioners report, for its own record on appeal states that the decision was rendered "after due hearing on the merit of the case," the question for determination refers to the amount of reasonable compensation that should be paid to Dacudao.

First item for consideration is the compensation for the land, which is the subject matter of the first error assigned by Dacudao and the second error assigned by plaintiff. Plaintiff's evidence on this point consists of assessment sheets for taxation purposes while that of Dacudao consists of copies of documents of actual sales of property in the city and testimony on alleged offers of purchase for the property being expropriated as well as for adjacent and nearby properties. On the basis of prices paid for actual sales the trial court, as already stated, has assessed Dacudao's land at P26.00 a square meter for the commercial portion and at P20.00 a square meter for the residential portion.

Dacudao contends in effect that, without any showing that the commissioners had committed a palpable error, the trial court had no right; to repudiate the valuation made by them and substitute its own criterion for that of the commissioners. This criticism is groundless. In the first place, the commissioners made an obvious mistake in giving weight to the testimony on alleged offers of purchase as evidence of value. As repeatedly held by this Court, "testimony as to mere offers for the property desired or for contiguous property is not admissible" in expropriation proceedings (*City of Manila vs. Estrada*, 25 Phil. 206; *Manila Railroad Company vs. Aguilar*, 35 Phil. 118). And in the second place, the decision below says that the commissioners assessed Dacudao's land at P40.00 a square meter on the erroneous hypothesis that the said land was wholly located within the commercial zone. And the court explained at length why the hypothesis was erroneous. Said the court:

"La Comision al cotizar el terreno en cuestion a razon de P40.00 el metro cuadrado, lo hizo por haber considerado el area total de dicho terreno como parte de la calle San Pedro, y que el mismo, esta localizado en el sector comercial.

"Esta apreciacion es erronea.

"Antes de presentar esta causa, Dacudao habia adquirido el permiso para construir un edificio en el terreno en cuestion. El plano de este edificio esta unido a este expediente. De acuerdo con dicho plano, el edificio propuesto tiene de frente que da a San Pedro, un area de 37.44 metros, y 18 metros de fondo, a lo largo de la calle Bolton; en total el area de terreno que ocuparia el edificio es 673.92 metros cuadrados. De acuerdo con este mismo plano, la planta baja del edificio tendria en total 7 puertas destinadas estas para el uso de establecimientos comerciales; 6 de estas hacen frente a San Pedro, y una en la esquina de las calles San Pedro y Bolton.

"De estos datos se infieren; 1.o que Dacudao no considera la calle Bolton como comercial; y 2.o, que la extension superficial de 673.92 metros cuadrados, el area que ocuparia el edificio propuesto, es la unica porcion del terreno en cuestion que forma parte de la calle San Pedro.

"Los testigos del demandado Dacudao declarando aseveran, que el terreno de la American Board of Foreign Missions, y el de la Alien Property Administration ubicados en San Pedro y vendidos el 1948, tienen menor importancia comercial que el terreno en cuestion, porque este ultimo esta situado en 3 calles, al Norte con la calle San Pedro, al Este con Bolton, y al Oeste con la calle municipal que se dirige al City Hall.

"Examinando el croquis donde aparece descrito el terreno en cuestion, obrante a folio ho de este expediente, siera que.

"Es de conocimiento general, que los caminos que estan en ambos lados del parque Quezon no tienen nombres, ni son caminos municipales como pretende el testigo Jose Ebro, y los mismos estan destinados exclusivamente para facilitar la entrada y salida del parque y City Hall.

"En el camino que da al Este del City Hall existe una acera. Desde el extremo de esta acera hay una faja de terreno de la ciudad que mide 10 metros de ancho al extremo de esta faja de terreno existen arboles sombrados en lineas rectas, de Norte a Sur, que sirven de linea divisoria que separa el terreno en cuestion con el de la ciudad donde estan situados el parque Quezon y City Hall.

"Examinando el plano del propuesto edificio de Dacudao, se vera que entre el terreno que forma parte del parque Quezon y el indicado edificio propuesto existe un pasillo para facilitar la entrada y salida de dicho edificio.

"Estos datos demuestran, que el edificio propuesto de Dacudao no colinda con uno de los caminos del parque Quezon.

"El terreno al Este de la calle Bolton que colinda al Sur con la calle Magallanes, es de la propiedad de la provincia de Davao donde este enclavado el Capitolio; este terreno (fucunda al Este con la calle Magallanes, y al Este de esta calle esta el terreno de la propiedad de la Puericulture Center donde estan enclavada su casa. El terreno que da frente al Capitolio este la propiedad de la mitra, donde estan enclavados la Iglesia de San Pedro y los edificios del Colegio de la Inmaculada Concepcion; este terreno colinda al Este con la calle Claveria.

"Estos datos demuestran, que de haber construido el edificio propuesto de Dacudao, dicho edificio estaria al final de la seccion comercial de San Pedro, aislado de los otros edificios construidos en San Pedro. Hechos estos que afectarian necesariamente el volumen de las ventas de los comerciantes que ocupan las puertas del indicado edificio. Por otro lado, los terrenos del intestado de la finada Horfelina Ang Barsing, el de la American Board of Commissioners for Foreign Missions, el de la Alien Property Administration asi como el de la propiedad de la tutela de los menores Simpol, estan situados en la linea de los establecimientos comerciales que dan frente a San Pedro.

"Del conjunto de los datos expuestos, el Juzgado es de opinion que del terreno en cuestion, 673.92 metros cuadrados del mismo, area ocupada por el propuesto edificio, forma parte de la calle San Pedro y su justo valor en el mercado al tiempo de la presentacion de esta causa es a razon de P26.00 el metro cuadrado, o sea, P17,521.92.

"El resto del terreno en cuestion de una extension superficial de 2,987.08 metros cuadrados, situada a lo largo de la calle Bolton, se clasifica como zona residencial, pero por su proximidad a la calle San Pedro, Capitolio, City Hall, Brokenshire Memorial Hospital y la Iglesia, su justo valor en el mercado al tiempo de la presentacion de esta causa es a razon de P20.00 el metro cuadrado, o sea P59,741.60."

It is obvious from the above that the lower court did not arbitrarily repudiate the commissioners valuation. It made a reasonable classification of Dacudao's land, determining what portion of it should be considered commercial and what portion residential, and the valuation it fixed appears to be in accord with the prevailing market price as reflected in the various sales made in that locality during the period from 1945 to 1948. Those sales may be tabulated as follows:

Area:

Location:

Vendee:

Vendor:

Price:

Date:

1,704

San Pedro St.

Jovito Francisco

P16.00

5/46

Claveria St.

E. de Guzman

B. Valencia

15.00 per sq.m.

1947

1,564

San Pedro St.
(near Dacudao)

Sexon & Borgaille

Am. Board of Com. on Foreign Mission

P26.00 per sq.m.

2/19/48

1,064

San Pedro

Juan Mercado

P30.00

10/48

Sta. Ana

Jose A. Ledesma

Public sale

P33.00

12/48

(Note: This last sale at P33.00 is the highest offer in a public sale of public land in Sta. Ana, not in San Pedro, far from Dacudao's property.)

It will be seen from the above abulation that the highest price paid for land in the neighborhood of Dacudao's property was only P30.00 a square meter, the price of P39.00 a square meter obtained in a public sale being for land situated in another district. On the other hand, the lowest price paid was P15.00 a square meter. To this we may add that in his own "motion to dismiss" Dacudao declared the prevailing market value of land in that locality to be P30.00 a square meter and asked that his lot be assessed at this price should the court uphold the legality of the expropriation.

In going over the testimony, we also note that a witness (Jose Tinio) for one of the defendants declared that the reasonable market value of the lot of Teofila Laud-Guino-o-which is contiguous to that of Dacudao—is P25.00 a square meter. Actually the compensation awarded for Teofila's lot was P20.00 a square meter, and she did not appeal from the award.

Considering (1) that Dacudao's lot is assessed for taxation purposes at P24,600.00 (P16,800.00 for the commercial portion, or P8.00 a square meter, and P3,900.00 for the residential, or approximately P2.50 a square meter); (2) that Dacudao himself has, in one of his pleadings, appraised this lot at only P30.00 a square meter; (3) that, as appears in the above tabulation, before the institution of the present condemnation proceedings, land in the vicinity was sold at P16.00 a square meter in 1945, P15.00 a square meter in 1947 and P26.00 a square meter in February, 1948, and that not until October, 1948, or about three months after the filing of this case, was land in the vicinity sold for P30.00 a square meter; and, lastly, (4) that mere testimony as to offers of purchase such as those referred to by Dacudao's witnesses, is not admissible evidence of value in expropriation proceedings, we believe that the valuation of P26.00 a square meter fixed by the trial court for the commercial portion and P20.00 for the residential portion of Dacudao's land is reasonable, and should, therefore, not be disturbed.

The second error assigned by Dacudao refers to the two houses with a small bodega on his and, for which the commissioners awarded P14,000.00. The trial court reduced the award to P8,000.00 considering that the structures were built long before the last war. The evidence presented before the commissioners was to the effect that the said houses were constructed about ten years prior to the expropriation proceedings at a cost of P4,000.00 each or P8,000.00 for the two that after liberation, repairs and improvements were made on them at a total cost of P6,000.00, or a total expenditure of P14,000.00 for the construction and repairs. But when it is considered that the houses were already ten years old and were made of wood; that the accepted depreciation of houses of this kind is about 10% a year, we find that the valuation of P8,000.00 fixed by the trial court cannot be unfair, and should, therefore, not be disturbed.

The third error assigned by Dacudao refers to the claim for damages suffered on account of the discontinuance of the construction of his proposed edifice after plans for the same had been drawn, part of the materials purchased, and excavations made. The damages are itemized in Exh. "D-Dacudao" and amount to P4,242.35. The trial court

rejected the claim on the ground that there was no proof that Dacudao had actually paid its amount to the contractor. But there is no question that the damages have actually been incurred and must be made good to the contractor by Dacudao, so that the loss will ultimately have to be borne by the latter. It would, therefore, be but just to allow recovery for the same in these proceedings.

In view of the foregoing, the Judgment appealed from is affirmed in so far as it awards to the appellant Dacudao the sum of P85,263.52 for his land and the improvements thereon, and reversed in so far as it denies recovery of the sum of P4,242.35 as damages for discontinuance of construction, so that it is hereby adjudged that the city of Davao pay to the said appellant the said sum of P4,242.35 with interest at the legal rate in addition to the sum awarded for the land and improvements. Without costs in this instance.

Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Bautista Angelo, JJ., concur.
Padilla, J., did not take part.

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