

**FRANCISCA GALEOS-VALDERUEZA, ANGEL VALDEHUEZA,
JOSEFINA GALEOS-PANERIO, PAULO PANEPIO AND JOSE GALEOS,
PLAINTIFFS AND APPELLANTS, VS. REPUBLIC OF THE PHILIPPINES
AND/OR CHIEF OF...**

G.R. No. L-21032. May 19, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The Republic of the Philippines instituted on September 5, 1938 condemnation proceedings in the Court of First Instance of Cebu[1] involving lands in Lahug, Cebu City, for purposes of a military reservation for use of the Philippine Army. Among these lands were Lots 932 and 939 of the Banilad Friar Lands Estate,[2] which had been acquired by Gervasia Denzon and Eulalia Denzon, respectively, for P237 and P152. Transfer Certificate of Title No. 14921 in the name of Gervasia Denzon covered Lot No. 932, which was 25,137 square meters in area; Transfer Certificate of Title No. 12560 in the name of Eulalia Denzon covered Lot No. 939, with an area of 13,164 square meters.

After depositing P9,500 with the Philippine National Bank,[3] in the name of the Provincial Treasurer, pursuant to an order of the Court dated October 19, 1938,[4] the Government took possession of the lands, on the same date.

On May 14, 1940 the Court of First Instance rendered its decision in the condemnation proceedings, ordering the Republic to pay the owners of Lots 932 and 939, Gervasia Denzon and Eulalia Denzon, the sum of P4,062.10.

The Denzons appealed from said decision to the Court of Appeals. During the pendency of said appeal, Gervasia Denzon died, on October 7, 1947, survived by two granddaughters, Josefina and Francisca Galeos. Said granddaughters are children of Bibiana, a daughter of Gervasia who predeceased her, and Bibiana's husband, Jose Galeos. It is stipulated that Eulalia Denzon died even earner, on October 25, 1931, without issue. (Stipulation of Facts, pars. 2 and 3, Record on Appeal, p. 27.)

Sometime in 1946 Jose Galeos asked one Nestor Belo-cura to follow up the claim of the Denzons with the Army. For then, the lands formed part of the military airport used by the Army, until in 1947, by virtue of a presidential proclamation, said airport became a national one and was turned over to the National Airports Corporation (now Civil Aeronautics Administration). On the two lots are found portion of the runway, the control tower, radio station and the waterpump. Nestor Belocura, however, was informed that no records were available.

Subsequently, on March 11, 1948, the Court of Appeals dismissed the appeal of the Denzons. Final judgment was entered therein on April 5, 1948.

In 1950 Jose Galeos filed a claim for rentals of the two lots with the National Airports Corporation, which denied knowledge of the matter.[5] Nestor Belocura brought the claim before then President Garcia, who wrote the Civil Aeronautics Administration [6] and the Secretary of National Defense [7] to expedite action on the claim. On September 6, 1961 Lt. Gen. Manuel F. Caball, Chief of Staff of the Armed Forces, formally rejected the claim but

expressed willingness to pay the appraised value of the property within a reasonable time.[8]

On September 20, 1961 Francisca and Jose fin a Galeos, as successors-in-interest of Gervasia and Eulalia Denzon, with their husbands, Angel Valdehueza and Pablo Panerio, respectively, as well as Jose Galeos, filed the present suit against the Republic of the Philippines, the Chief of Staff of the Armed Forces of the Philippines, the Commanding General of the Philippine Army, the Commanding General of the 3rd Military Area and the Administrator of the Civil Aeronautics Administration, in the Court of First Instance of Cebu, for the possession of Lots 932 and 939, and damages by way of rentals in the total amount of P983,675.75, plus further rentals of P38,301 monthly from October 1961 until the lots are turned over, and P100,000 attorney's fees.

On November 9, 1961 Jose Galeos secured the issuance of Transfer Certificates of Title Nos. 23934 and 23935 covering the aforementioned lots,[9] both in the names of "Francisca Galeos-Valdehueza and Josefina Galeos-Panerio." Annotated thereon, however, was the following: "Subject to the priority of the National Airports Corporation to acquire said parcels of land, Lots Nos. 932 and 939 upon previous payment of a reasonable market value."

After issues were joined, in the suit afore-stated, on July 31, 1962 the Court of First Instance decided that because of the non-payment of the sum of P4,062.10 adjudged in the condemnation proceedings, ownership of the lots remained in the plaintiffs; but that the latter cannot refuse to transfer said lots to the National Airports Corporation (now the Civil Aeronautics Administration) because of the annotation on their title certificates. And in view of the differences in money value from 1940 up to the present, said court adjusted the amount of the market value at P16,248.40, to be paid with 6% interest per annum from April 5, 1948, date of entry of final judgment in the condemnation suit, until full payment, plus P3,000 attorney's fees.

The dispositive portion of said decision reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment:

"(1) Sentencing the herein defendants to pay to the ho rein plaintiffs as the reasonable market value of the two lots in question the sum of P16,248.40, with interest at legal rate from April 5, 1948, until full payment shall have been made, plus there thousand pesos (P3,000.00) as reasonable attorney's fees, and to pay the costs; and

"(2) Ordering the plaintiffs, upon receipt of the payment here-inabove ordered, to execute the requisite deed of sale of the two parcels of land in question in favor of the defendants.

"SO ORDERED."

After denial of a motion for reconsideration, plaintiffs appealed from said judgment, directly, in view of the amount in controversy, to this Court.

Appellants would contend that: (1) Possession of Lots 932 and 939 should be restored to them as owners of the same; (2) the Republic should be ordered to pay rentals for the use of said lots, plus attorney's fees; and (3) the court a quo in the present suit had no power to fix the value of the lots and order the execution of the deed of sale after payment.

It is true that plaintiffs are still the registered owners of the land, there not having been a transfer of said lots in favor of the Government. The records do not show that the Government paid the owners or their successors-in-interest according to the 1940 CFI decision although, as stated, P9,500 was deposited by it, and said deposit had been disbursed.[10] With the records lost, however, it cannot be known who received the money.[11] And the Government now admits that there is no available record showing that payment for the value of the lots in question has been made.[12]

The points in dispute are whether such payment can still be made and, if so, in what amount. Said lots have been the subject of expropriation proceedings. By final and executory judgment in said proceedings, they were condemned for public use, as part of an airport, and ordered sold to the Government. In fact, the abovementioned title certificates secured by plaintiffs over said lots contained annotations of the right of the National Airports Corporation (now CAA) to pay for and acquire them. It follows that both by virtue of the judgment, long final, in the expropriation suit, as well as the annotations upon their title certificates, plaintiffs are not entitled to recover possession of their expropriated lots—which are still devoted to the public use for which they were expropriated—but only to demand the fair market value of the same.

Said relief may be granted under plaintiffs' prayer for: "Such other remedies which may be deemed just and equitable under the premises." (Record on Appeal, p. 4) For this matter, in *Alfonso vs. Pasay City*, 106 Phil., 1017, where there was even no expropriation proceedings, this Court denied recovery of possession by the registered owner of a portion of a private lot taken by Pasay City and used for road purposes, and instead decreed payment of its market value at the time it was taken and appropriated. With more reason, therefore, applying the rule in expropriation proceedings, should the registered owners in this case be held entitled to get, not their lots, but their lots' fair market value.

As to the matter of rentals, the claim for the same cannot be sustained, in view of our rulings, penned by Justice J.B.L. Reyes, in the following two cases: In *Republic vs. Lara*, 96 Phil. 170, 184-185, this Court ruled that indemnity for rentals is inconsistent with the owner's right to be paid legal interest on the value of their properties from the time of their actual taking; for if the Government is to pay on the compensation due to the owners from the time of the actual taking of their property, the payment of such compensation is deemed to retroact to the actual taking of the property; and, hence, there is no basis for claiming rentals from the time of actual taking. And in *Republic vs. Garcellamo* [13] the rule was re-stated that in expropriation, the compensation for the use of the land after it is taken by the Government—

"* * * must be, not in the form of rentals, but by way of interest from the date that the company [or entity] exercising the right of eminent domain takes possession of the condemned lands, and the amounts granted by the court shall cease to earn interest, only from, the vwmertit they are paid to the owners or deposited in court. *

* *' "

Since, as afore-stated, deposit in court of P9,500 was made by the Government before taking possession of the lots herein involved, the Court a quo rightly awarded interest not from the time of taking of possession, but from the time of final entry of the judgment in the expropriation case on April 5, 1948.

For the reason that plaintiffs were insisting- upon demanding rentals from defendants, the latter were therefore justified in resisting their claim. It follows that nonpayment of said claim by defendants cannot be deemed to have resulted in abandonment of defendants' right (and obligation) to pay the judgment value of the lots, phis interest. It likewise results therefrom that the award of P3,000 as attorney's fees for plaintiffs by the court a quo ought not further be increased.

As stated earlier, the court a quo noted fluctuations in the value of the peso since 1940 and, in view thereof, ordered defendants to pay P16,248.40 as the present equivalent of the adjudged value of P4,062.10 in the 1940 CFI decision. Whatever error may have been committed by the court a quo in thus fixing a greater sum to be paid by defendants, the same favors plaintiffs and therefore cannot at this stage be corrected, since defendants have not appealed from the judgment below and, in fact, ask that it be affirmed, recognizing as basis for compensation the increased amount of P16,248.40 (Appellees' brief, pp. 35-36).

Wherefore, finding no reversible error therein, the judgment appealed from is hereby affirmed, without costs in

this instance. So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Dizon, Regala, Zaldivar and Sanchez, JJ., concur.

Judgment affirmed.

[1] Civil Case No. 781.

[2] An Administrative government agency.

[3] Receipt, Exh. 13, acknowledged by Provincial Treasurer,

[4] Exhs. 11 and 12.

[5] Exh. K.

[6] Exh. L.

[7] Exh. M.

[8] Exh. C

[9] Exhs. E and F.

[10] Exh. 14, Certificate of Provincial Treasurer of Cebu dated Nov. 25, 1952.

[11] Exh. 14 says: "It is further certified that the corresponding Vouchers and pertinent Journal and Cash Book were destroyed during the last World War, and therefore the names of the payees concerned cannot be ascertained."

[12] Stipulation of Facts, par. 9, Rec. on Appeal, p. 28.

[13] 103 Phil. 231. 54 Off. Gaz., 7733, 7738.

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