

**LIGHT RAIL TRANSIT AUTHORITY, PLAINTIFF-APPELLANT, VS.
HECTOR V. CORPUZ AND SPOUSES RICARDO K. BOLIPATA &
ELENITA M. CORPUZ, DEFENDANTS-APPELLEES.**

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This an appeal by plaintiff-appellant Light Rail Transit Authority (LRTA) from the order dated October 7, 2009 rendered by the Regional Trial Court, (RTC) of Manila, Branch 26 in SP. Civil Action No. 00-99204 for expropriation.

Plaintiff-appellant LRTA is a government entity created under Executive Order No. 603 dated July 12, 1980, as amended by Executive Order No. 210, and authorized by law to exercise the right of eminent domain and institute condemnation proceedings for the acquisition of privately-owned lands for public use or purpose in order to construct and operate a mass transportation system that can provide the public with a safe, efficient and reliable means of mobility. Defendants-appellees Hector V. Corpus and Sps. Ricardo K. Bolipata and Elenita M. Corpus are registered owners of a parcel of land with improvements thereon situated in Sta. Cruz, Manila and covered by Transfer Certificate of Title (TCT) No. 215092 issued by the Register of Deeds of the City of Manila.[1]

In order to construct the LRT Line 2 of the Metro Manila Strategic Mass Rail Transit Development Project, plaintiff-appellant made an offer to buy defendants-appellees' property, however, the latter declined the offer because both parties failed to agree on the purchase price and other conditions of the sale.[2] On November 13, 2000, plaintiff-appellant filed a complaint with the RTC of Manila against defendants-appellees praying for 1) expropriation of the subject property upon payment of just compensation; 2) appointment of three (3) competent and disinterested persons as commissioners to determine the amount of just compensation; and 3) issuance of an order authorizing plaintiff-appellant to take possession of subject property pending proceedings and final resolution of the case, after deposit of an amount equivalent to ten (10%) percent of the amount offered by plaintiff-appellant as purchase price pursuant to Sec. 2 of Administrative Order No. 50 dated February 17, 1999.[3] In its complaint, plaintiff-appellant alleged that the assessed value of the property for taxation purposes is as follows:

A. For the Land:

Tax Declaration No. 96-410-00404

Affected Area ----- 167.10 square meters

Assessed Area ----- P 2,757,150.00

Market Value ----- P 5,514,300.00

B. For the Improvements:

Tax Declaration No. 96-310-00405

Assessed Area ----- P 161,370.00

Market Value ----- P 461,060.00

On November 28, 2000, plaintiff-appellant deposited the amount of Three Million Sixty-Six Thousand Six

Hundred Fifty Pesos (Php3,066,650.00) with Land Bank of the Philippines, Baclaran Branch under SA#0271-0848-38 in the name of defendants-appellees.[4]

In their amended answer and opposition, defendants-appellees alleged that plaintiff-appellant was illegally and improperly using its expropriation powers to acquire private property along C.M. Recto, Zurbaran (now Fugoso Street) and Central Market areas in Manila, in the guise of utilizing the same for LRTA's Line 2 project; that plaintiff-appellant's true purpose or intention is to build a huge, modern and more profitable business and shopping complex similar to Fort Bonifacio City in Taguig; and that plaintiff-appellant was actually in consortium with unknown foreign partners, the Public Estates Authority and/or Manila City Government. Defendants-appellees contended that the LRTA's Line 2 project should traverse the Old Bilibid Compound instead of their property; and that they will only agree to sell their property at the current selling price around the vicinity, i.e., P80,000.00 – P88,000.00 per square meter, which rate had already been previously paid by the LRTA to four (4) other owners, the most recent being System Realty Development Corp. in Civil Case No. 00-96159, where the RTC of Manila rendered a decision dated December 22, 2000 directing payment of just compensation to the owners at P88,000.00/ square meter.[5]

On June 13, 2001, the RTC issued a writ of possession in favor of plaintiff-appellant. It also issued a notice to vacate the premises directing the sheriff to eject all occupants of the property, particularly defendants-appellees' present lessee Manuel Mazon and all persons claiming rights under him.[6]

On May 22, 2003, pre-trial conference was held where the parties stipulated as follows: 1) Plaintiff-appellant is empowered to exercise the right of eminent domain and institute condemnation proceedings for the acquisition of private land for public use; 2) The subject property is a corner lot; 3) The case entitled "Systems Development Corporation vs. LRTA (Civil Case No. 00-96159)" exists; and 4) The issues to be resolved are: a) whether RA No. 8974 is applicable to the case at bar; and b) what is the amount of just compensation.[7] During the hearing on September 19, 2003, the parties agreed that the only issue for resolution is determination of just compensation.[8] On August 20, 2004, the RTC appointed commissioners Edgar B. Afable, Bart Peter Ll. Benjamin and Mercedes DC. Catil based on the parties' recommendations to determine just compensation on the subject property.[9]

On May 17, 2007, the RTC rendered a decision dated May 17, 2007, ruling as follows:

"xxx Where the principal issue is the determination of just compensation, a trial before the commissioner is indispensable, however, this Court made its own estimate of value based on evidence on record for failure of the commissioners to submit a report on the issue of just compensation for the defendant's land. Therefore, this Court adopts City Appraisal Committee Resolution No. 98-6 dated September 17, 1998 (Exhibit E-1)[10], and Resolution No. 98-2 dated April 22, 1998 (Exhibit F-1)[11] in its acquisition of the land of Beng L. Choa, Martinez Leyba Inc., Downtown Development Corp., and Acme Steel Manufacturing, Inc., respectively at Php80,000.00 per square meter.

The Court cannot take judicial notice of the Decision of the Regional Trial Court, Branch 12 in Case No. 00-96159 because the same was neither presented nor heard in Court.

Likewise, this Court adopts Resolution No. 97-4 dated October 10, 1997 wherein the City Appraisal Committee appraised several buildings and other improvements that have been affected by the LRT Line 2 Project and recommended the amount of Php507,876.00 as the fair and reasonable market value of the improvements under the name of Hector Corpuz.

It is not disputed that defendant's property is located in a commercial area, however, the defendants are not entitled to lost profits of Php14,333,096.00 because as can be gleaned from the records of the instant case, the plaintiff made an offer as early as 1997 and filed its complaint on November 13, 2000 while the alleged

contracts were only executed on December 1, 2000. In addition, there is no proof that the building was earning at the time of the filing of the complaint. No official receipts were issued for the alleged rents.

WHEREFORE, premises considered, the just compensation to be paid by the plaintiff for the defendant's property is Php80,000.00 per square meter on the land consisting of 167.10 square meters or a total of Php13,368,000.00 and Php507,876.00 as the fair and reasonable market value of the improvements and P50,000.00 for attorney's fee.

SO ORDERED."[12]

On June 22, 2007, defendants-appellees filed a motion for reconsideration of the RTC decision dated May 17, 2007 contending that the fair market value of the expropriated property is P14,704,800.00 (P88,000.00/square meter X 167.1 sq. m); that they sustained a loss of income of P14,333,096.00 on account of the expropriation; that the fair market value of the expropriated commercial building is P2,052,000.00; and that they incurred an expense of P200,000.00 for attorney's fees and litigation expenses.[13] On July 4, 2004, defendants-appellees filed an amended motion for reconsideration contending further that there was practically no judicial determination of just compensation; and that the RTC failed to comply with the provisions of Republic Act No. 8974 entitled "An Act to Facilitate the Acquisition of Right-of-way, Site or Location for National Government Infrastructures Projects and For Other Purposes."[14]

On September 18, 2007, the RTC issued an order denying the motion for reconsideration for lack of merit.[15]

On September 1, 2009, defendants-appellees filed a Motion for Early Resolution (with Supplemental Motion for Reconsideration), alleging that the RTC failed to resolve their motion for reconsideration, as amended; that neither they nor their counsel received notice of any resolution regarding the same; that the RTC failed to determine just compensation and to take into account the applicable provisions of RA No. 8974 in its decision dated May 17, 2007; and that plaintiff-appellant is estopped from claiming that RA No. 8974 is inapplicable to their case considering its previous admission in a joint motion filed before the RTC on May 16, 2001 to the effect that said law is the most recent and controlling law.[16] On September 4, 2009, the RTC directed plaintiff-appellant to comment on defendants-appellees' motion.[17]

On October 7, 2009, the RTC issued the appealed order, the dispositive portion of which reads:

"WHEREFORE, premises considered, this Court rules in favor of the plaintiff LRTA and hereby declares that it has the lawful right to take the property sought to be expropriated for public use, subject to the payment of just compensation. As to the amount of just compensation to be paid by plaintiff LRTA, the evidence established that the same should be Php14,704,800.00 as fair market value of the expropriated parcel of land; Php15,180,000.00 for lost rental income sustained by defendants on account of the expropriation; Php2,052,000.00 as replacement cost of the expropriated commercial building; interest of 12% compounded annually, on the fair market value of the expropriated land, from the time plaintiff LRTA took possession of the property in 2001 until full payment of the just compensation; interest of 12% compounded annually, on the aggregate value of lost income sustained by defendants on account of the expropriation, from the time plaintiff LRTA took possession of the property in 2001 until full payment of the just compensation; interest of 12% compounded annually, on the replacement cost of the expropriated commercial building, from the time plaintiff LRTA took possession of the property in 2001 until full payment of the just compensation; and Php2,000,000.00 as attorney's fees and litigation expenses.

SO ORDERED."[18]

In its decision, the RTC held that first, defendants-appellees failed to receive notice of any resolution resolving their motion for reconsideration/amended motion for reconsideration of the decision dated May 17, 2007 and their

subsequent supplemental motion for reconsideration. Second, the trial court held that mere filing of the complaint for expropriation before the effectivity of RA No. 8974 does not preclude the applicability of the said law to the pending case because procedural and remedial laws are designed to correct and amend old rules, particularly Rule 67 of the Rules of Court, as amended, and are given retroactive effect. Further, plaintiff-appellant is estopped from claiming that said law does not apply considering that in the "Urgent Joint Motion to Set Simultaneous Hearings of Motion for Writ of Possession and Pre-Trial," filed by both defendants-appellees and plaintiff-appellant on May 16, 2001, both parties stated and admitted that par. 3 of RA No. 8974 is the most recent and controlling law. Third, the RTC held that plaintiff-appellant failed to comply with Sec. 4 of RA No. 8974, requiring payment equivalent to 100% of the value of the property based on the current zonal valuation of the Bureau of Internal Revenue. Contrary to the said provision, the deposit made by plaintiff-appellant was equivalent to 10% of the assessed value based on the Tax Declaration paid by defendants-appellees. Fourth, the RTC took judicial notice of the decision of the RTC, Branch 12 of Manila in Civil Case No. 00-96159 entitled "LRTA vs. System Realty Development Corporation, where it was ruled that the current selling price of similar lands in the same vicinity is P88,000.00 per square meter. Fifth, with respect to the value of improvements, the RTC held that based on the implementing rules of RA No. 8974 utilizing the "replacement cost method," and the testimony of real estate appraiser Joaquin Alejandro, the valuation of the commercial building on the subject property should be P2,052,000.00. Sixth, in determining loss of income suffered by defendants-appellees by reason of the expropriation, the RTC considered the rentals paid by defendants-appellees' lessees even if the latter's lease contracts were executed/renewed after the filing of the complaint on November 13, 2000. The RTC reasoned that at the time of filing of the complaint, plaintiff-appellant could not have been certain of a favorable ruling since there were other available adjacent properties in the vicinity which could have been adjudged more suitable for the project.

On October 19, 2009, plaintiff-appellant filed a notice of appeal.[19] In this appeal, plaintiff-appellant assigns the following errors to the trial court: The RTC allegedly erred in 1) issuing the assailed order dated October 7, 2009 substantially modifying and supplanting its final and executory decision dated May 17, 2007; 2) ruling that Republic Act No. 8974 is applicable in the instant expropriation case; 3) applying Secs. 4, 5 & 7 of R.A. No. 8974 and its implementing rules in determining just compensation; and 4) taking judicial notice of the valuation in LRTA vs. System Realty Development Corporation and awarding in favor of defendants-appellees P14,704,800.00 as fair market value of the land; P15,180,000.00 for lost rental income; P2,052,000.00 as replacement cost of commercial building; interest of 12% compounded annually on lost of income; and P2,000,000.00 for attorney's fees and litigation expenses. Plaintiff-appellant prays for reversal of the order dated October 7, 2009 and reinstatement of the decision dated May 17, 2010.[20]

The appeal is meritorious.

First, this Court finds that the RTC committed reversible error in issuing the order dated October 7, 2009. Record shows that on September 18, 2007, the RTC had already denied defendants-appellees' motion for reconsideration/amended motion for reconsideration of the decision dated May 17, 2007, albeit defendants-appellees' counsel failed to receive notice of the order because it was mailed to the wrong address.[21] Record also shows that the order denying the motion was rendered after the RTC conducted hearings thereon.[22] Under the Revised Rules of Court, when a party is represented by counsel, service of notice of judgment should be made upon counsel at the latter's "exact given address." The date of service of judgment serves as the reckoning point of the 15-day reglementary period to file an appeal.[23] In the case of defendants-appellees, absence of notice of the order dated September 18, 2007 simply means that the 15-day period to file an appeal did not begin to run against them.[24] Such absence of notice, however, did not justify issuance of the appealed order dated October 9, 2007 which not only effectively reversed the previous order of denial of the motion for

reconsideration, but also substantially amended the decision dated May 17, 2007.

Second, this Court also finds that the RTC committed reversible error in applying the provisions of R.A. No. 8974 to resolve anew the issue of just compensation. Records show that the complaint for expropriation was filed against defendants-appellees on November 13, 2000, while the said law only became effective on November 26, 2000. Art. 4 of the Civil Code provides that "laws shall have no retroactive effect, unless the contrary is provided." A well-settled exception to the rule on prospectivity is when the law in question is remedial in nature. The rationale to this exception is that no person can claim any vested right in any particular remedy or mode of procedure for the enforcement of a right. Contrary to the RTC's premise in this case, RA 8974 is substantive in nature and cannot given retroactive effect.[25] The appropriate standard of just compensation or the question of how much should the government pay by way of initial deposit in expropriation cases relating to government infrastructure projects, is a substantive and not merely a procedural matter since it involves the creation of rights to be enjoyed by the owner of property sought to be expropriated. Thus, the RTC erred in applying RA No. 8974 retroactively. First, RA No. 8974 is a substantive law. Second, there is nothing in RA No. 8974 which expressly provides that it should have retroactive effect. Third, retroactivity is not necessarily implied from the provisions of RA No. 8974 or its Implementing Rules.[26]

In this case, determination of the applicable law finds significance insofar as the issue of payment of the correct deposit or initial payment is concerned. Sec. 2, Rule 67 of the Rules of Court, as amended, provides for the deposit or initial payment of an amount equivalent to the assessed value of the expropriated property for purposes of taxation. Under Sec. 2 of Administrative Order No. 50,[27] the deposit or provisional payment required of the government agency is 10% of the offered amount or the amount offered in writing by the government agency equivalent to 10% higher than the zonal value of the subject property.[28] However, the issue of the deposit or initial payment in this case has been rendered moot, considering that defendants-appellees can already be paid the just compensation upon the finality of this decision.

WHEREFORE, the appeal is GRANTED. The order dated October 7, 2009 is SET ASIDE. The decision dated May 17, 2007 rendered by the Regional Trial Court of Manila, Branch 26 in SP. Civil Action No. 00-99204 is REINSTATED.

SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur.

[1] Exhibit "A", Record, Vol. 2, p. 314.

[2] Exhibit "D", Id. at p. 319.

[3] Record, Vol. 2, pp. 1-6.

[4] Record, Vol. 1, pp. 16-18.

[5] Id. at pp. 72-80.

[6] Id. at p. 125; pp. 128-131.

[7] Id. at pp. 250-251.

[8] Id. at p. 277.

[9] Id. at p. 269.

[10] Record, Vol. 2, pp. 335-336.

[11] Id. at pp. 360-361.

[12] Record, Vol. 2, pp. 636-639.

[13] Record, Vol. 2, pp. 641-645.

[14] Id. at pp. 653-667.

[15] Id. at p. 691.

[16] Id. at pp. 696-711.

[17] Id. at p. 713.

[18] Id. at pp. 716-724.

[19] Id. at pp. 728-729.

[20] Rollo, pp. 42-43.

[21] Record, Vol. 2, p. 693 & pp. 633-634.

[22] Record, Vol.2, pp. 677 & 691.

[23] National Power Corporation vs. Hon. Paterno Tac-An, et al., G.R. No. 155172, February 14, 2003; Mindanao Terminal and Brokerage Services, Inc. vs. Court of Appeals and Philippine Ports Authority, G.R. No. 163286, August 22, 2012.

[24] Republic of the Philippines vs. Department of Public Works and Highways and BPI, G.R. No. 203039, September 11, 2013.

[25] Sps. Curata, et al. vs. Philippine Ports Authority, G.R. Nos. 154211-12, 158252, 166200, 168272, 170683, 173392, June 22, 2009.

[26] Ibid.

[27] Administrative Order No. 50 - Guidelines For The Acquisition Of Certain Parcels Of Private Land Intended For Public Use Including The Right-Of-Way Easement Of Several Public Infrastructure Projects (effective February 17, 1999).

[28] Note 25.

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