

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CELESTINO C. JUAN AND ANA TANSECO JUAN,
DEFENDANTS-APPELLANTS.**

G.R. No. L-24740. July 20, 1979

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Appeal by defendants-appellants from the decision dated September 28, 1964 of the Court of First Instance of La Union in Civil Case No. 1835 for the expropriation of 338.7480 hectares of land owned by spouses Celestino C. Juan and Ana Tanseco as the site for the La Union Regional Agricultural School, directing the plaintiff Republic of the Philippines to

"x x x pay the legal owners Celestino C. Juan and Ana Tanseco the amount of P190,000.00 which is the just and reasonable compensation that the Court rules in this case in favor of the defendants; and it appearing that on May 7, 1963, P100,000.00 had already been paid, it is therefore ordered that upon this decision becoming final the balance of P90,000.00 plus interest of 6% from May 4, 1963 shall be paid to defendants Celestino C. Juan and Ana Tanseco," aside from the costs of the suit.

Defendants-appellants are the registered owners of two (2) adjoining parcels of land located at Barrio Sapilang, Bacnotan, La Union with an aggregate area of 3,387,480 square meters or 338.7480 hectares, more or less, and covered by Original Certificate of Title No. 0-420 issued on April 14, 1959 (pp. 9-14, 46-47, ROA; Vol. I, rec.).

Pursuant to the authorization issued on March 15, 1963 by the President of the Philippines through the Executive Secretary (p. 15, ROA), the Solicitor General filed on April 8, 1963 the complaint for expropriation of the aforesaid parcels of land to be used as the site of the La Union Agricultural School, which was to be established by authority of Republic Act 2692 (pp. 9-20, 43, ROA, Vol. I, rec.).

Before the institution of the expropriation proceedings Victor Luis, who was appointed principal of the proposed school, recommended the property of defendants as the school site. Thereafter, together with Mrs. Avelina L. Osias, he negotiated with the defendants for the purchase of their property (pp. 85-87, ROA, Vol. I, rec.). On January 25, 1963, he wrote a letter to defendant Celestino Juan, thus:

"x x x Feelers have come to you to inquire about the price that you would be willing to sell your land. Mrs. Pacita Gonzales and the undersigned came to you personally and you informed us verbally your least price of P170,000.00 which you explained to us is very reasonable.

"May I request your kindness to confirm the above price in writing, as your offer as the selling price of your above-mentioned land in order that there will be an official record or basis in negotiating with authorities concerned in the purchase of your land as school site." (pp. 43-44, ROA, Vol. I, rec.).

Defendant Celestino Juan replied on January 28, 1963

"x x x that the selling price of my land is P170,000.00 net to me exclusive of the amount of my obligation to

the China Banking Corporation where the property is mortgaged.

"The condition of the sale is at least P90,000.00 down and the balance within a period of one (1) year. Title to the property will be transferred to you immediately provided that an annotation of the remaining balance of the price be accordingly made in the new title.

"I wish, however, to tell you that presently there are no less than 23 tenants in the land and they are harvesting or about to harvest their tobacco crops. In justice to them, they should be allowed to finish harvesting their crops before they are finally ejected.

"It is with deep regret that I cannot part with the land at a lesser price. There are 3 parties at least aside from you who are interested to buy the land. One of them is ready to sign the contract for a price of P200,000.00 payable in cash or at least a period of ten (10) days. This party, through an understanding with a certain bank can mortgage the property for P350,000.00. As you see, if the primary consideration is money alone, then, if I am a smart, I should mortgage the land myself. It should be noted, and I have all the records with me, that I have applied for a loan with the Development Bank of the Philippines in the amount of P4,102,000.00 principally to establish a dairy farm and mortgaging only as collateral the said land. From the conversation with said bank, it seems to me that the same would be favorably considered if not for P4,000,000.00 at least P1,000,000.00.

"Kindly confirm your acceptance of the terms of this letter as I can only hold the land for a period of ten (10) days." (pp. 382-384, ROA).

After receipt of the aforequoted letter, Mr. Luis consulted his office in Manila (p. 86, ROA, Vol. I, rec.) as well as the provincial officials of La Union and the municipal officials of Bacnotan (pp. 86, 174, ROA, Vol. I, rec.).

In an order dated April 15, 1963, the trial court authorized the Government to enter and take immediate possession of the property after depositing the amount of P90,793.70 with the provincial treasurer of La Union as provisional value (p. 20, ROA, Vol. I, rec.).

Defendants on April 24, 1963 filed their "Urgent Motion for Reconsideration and/or to Lift Writ of Possession" questioning among others, the propriety and correctness of Resolution No. 13, series of 1962, of the Provincial Appraisal Committee and pointing out that "the fair and reasonable market value x x x should be at least fifty centavos (P0.50) per square meter or P5,000.00 per hectare" and prayed that the complaint for expropriation be dismissed for lack of jurisdiction; to set aside the order dated April 15, 1963 and instead order plaintiff to deposit the amount of P300,000.00 as provisional value; and to set aside the writ of possession dated April 16, 1963 until the court has decided the issue of jurisdiction and/or until plaintiff has de-positd the amount of P300,000.00 as provisional value of the property (pp. 22-32, ROA, Vol. I, rec.). On the same date, the lower court lifted the writ of possession until further orders.

Acting on the aforesaid motion on April 26, 1963, the lower court found the expropriation proceedings in order and the provisional value made by the Provincial Appraisal Committee inadequate and ordered the plain-tiff Republic of the Philippines to deposit the amount of P100,000.00 as provisional value until the true valuation of the lots can be determined in accordance with law and further directed "that for the best interest of the defendants whose improvements may be vandalized for lack of protection, let the writ be effected without prejudice to the final determination of the true value of the property to be determined in due course" and forthwith ordered the issuance of the writ of possession after the deposit by plaintiff of the amount of P100,000.00 is made (p. 45, ROA, Vol. I, rec.).

On May 4, 1963, plaintiff Republic of the Philip-pines took possession and occupied the lots under expropriation (p. 86, ROA, Vol. I, rec.) and deposited on May 7, 1963 the amount of P100,000.00, which the appellants

withdrew that same day.

On May 7, 1963, defendants filed two simultaneous pleadings: motion for reconsideration of the provisional value on the ground that the value fixed by the court is still inadequate; and a motion to dismiss which likewise embodied defendants' answer to the complaint for expropriation (pp. 46-66, ROA, Vol. I, rec.).

In an order dated June 13, 1963, the court denied the motion to dismiss of defendants for lack of merit (p. 66, ROA, Vol. I, rec.).

In an order dated January 8, 1964, the trial court directed the condemnation of the property,

"it appearing that the plaintiff has already deposited the amount of P100,000.00 the provisional value of the property sought to be condemned, which amount has already been withdrawn by the defendants and the property accordingly turned over to the Republic of the Philippines for the use of the La Union Agricultural School, x x x" (pp. 66-67, ROA, underlining supplied).

and appointed as commissioners of appraisal (1) Atty. Rogelio Balagot, for the lower court and as chairman; (2) Atty. Eufemio Molina, for the plaintiff; and (3) Atty. Pablito M. Rojas, for the defendants (pp. 4, 67-68, ROA, Vol. I, rec.).

For a period of three days, these commissioners in the presence of the parties, conducted an extensive ocular inspection and physical investigation of the property, after which they held protracted hearings until June 2, 1964, wherein both parties were given full opportunity to present their respective positions with voluminous documentary and oral evidence (p. 4, ROA, Vol. I, rec.).

On June 29, 1964, Atty. Eufemio Molina, commissioner for plaintiff, filed his report dated June 25, 1964 (pp. 69-78, ROA, Vol. I, rec.) recommending

"x x x that the value of the land of defendants to be taken as the site of the La Union Agricultural School at Sapilang, Bacnotan, La Union, be fixed at P135,000.00, which amount is the meeting point between the government's offer of P100,000.00 and the defendants' price of P170,000.00."

Atty. Pablito M. Rojas, commissioner for the defendants, in his report of July 13, 1964, recommended

"x x x as the price of the land to be paid by the plaintiff to the defendants the amount of P1,407,856.00, the same to bear interest at the legal rate from the date of possession by the plaintiff to the date the amount is actually paid."

Commissioner Rogelio F. Balagot for the court and chairman recommended:

"x x x that the just compensation to be paid the defendants landowners be the following:

Value of the Land

P1,044,163.70

Value of Improvements . .

1,712.60

Total Amount .

P1,045,876.30

"That the balance of P945,876.30 (deducting P100,000.00, the amount paid as provisional value) earn legal interest (6%) until fully paid."

Defendants-appellants filed their objection to the reports of Commissioners Rojas, Balagot and Molina, claiming that the true value of the land is P1,736,208.32 or P1,693,740.00 (pp. 284, 374, ROA, Vol. I, rec.).

On September 4, 1964, defendants filed a petition entitled "Petition to Submit Case for Decision" without any hearing on the reports (p. 378, ROA, Vol. I, rec.).

On September 28, 1964, the lower court rendered its decision (pp. 380-426, ROA, Vol. I, rec.).

A motion for reconsideration was filed by defendants on October 26, 1964 (pp. 426-508, ROA, Vol. I, rec.), but the same was denied by the Court in an order dated May 10, 1965 (pp. 509-514, ROA, Vol. I, rec.).

I

Under their first assignment of error, appellants contend that the propriety of the expropriation and the manner in which it was conducted were in dispute throughout the proceedings in the trial court and that they never waived their objections thereto; that the conditions precedent as provided for by Executive Order No. 132, series of 1937, as amended, were not complied with, for no proper and valid negotiation to purchase the lots or to have it donated to the Government was undertaken by the State before the institution of the expropriation case in court; and that the resolution of the Appraisal Committee which was the basis of the amount alleged in the complaint as the fair market value of the lots to be expropriated was null and void, having been adopted contrary to legal requirements (pp. 24-46, Appellants' Brief; p. 11, Vol. II, rec.). The same points were raised by the appellants in their motion for reconsideration of the lower court's main decision and the trial court in its order of May 10, 1965 correctly overruled them, stating that:

"Movants start by bringing to the front the alleged lack of negotiations between plaintiff and defendants for the acquisition of the 338 hectares belonging to the latter. Non-compliance with Executive Order No. 132 is mentioned repeatedly by the defendants as vitiating this case. It is even hinted that the best resolution for this case would be to dismiss it because plaintiff failed to comply with said Executive Order dictated in pre-war days. Plaintiff delivered to defendants through this Court P100,000.00 as part of the fair and just compensation that the defendants are entitled. On May 7, 1963, such amount was received by defendants and plaintiff started developing the area and constructing the buildings needed for the La Union Agricultural School. This school is now in operation; and it would certainly be the most disturbing step for the regularity of the functions of the Government to dismiss the case, compelling the plaintiff to remove all buildings in the land that once belonged to the defendants and return the property to them. Besides, interpreting with fair liberality the pre-war Executive Order No. 132, the court shall now state that for the purpose of negotiations with the land owners the letter of January 5, 1963 received by the defendants and the latter's reply of January 28, 1963 are clear and sufficient compliance with the tenor and spirit of said Executive Order. The court, therefore, re-jects any request that this case having been filed without sufficient compliance with said administrative procedures the whole proceeding shall have to be dismissed. This cannot be done." (pp. 511-512, ROA, Vol. I, rec.).

To begin with, it must be emphasized that plaintiff-appellee in this instant case is the Republic of the Philippines which is exercising its right of eminent domain inherent in it as a body sovereign. In the exercise of this sovereign right, the State is not subject to any limitation other than those imposed by the Constitution which are: first, the taking must be for a public use; secondly, the payment of just compensation must be made; and thirdly, due process must be observed in the taking. Beyond these conditions, the exercise by the State of its right of eminent domain is subject to no restraint. Section 64(h) of the Revised Administrative Code confers upon the Chief Executive the power to determine when it is necessary or advantageous to exercise the power of eminent domain in behalf of the Republic of the Philippines and to direct the Solicitor General to cause the filing of the appropriate condemnation proceedings in court. By this grant, the executive authorities may then decide whether the power will be invoked and to what extent (see pp. 87-89, Political Law of the Philippines, Tañada and Carreon, 1962 ed.,

citing *Visayan Refining Co. v. Camus*, 40 Phil. 550).

Appellants in making their first assignment of error are under the wrong impression that the provisions of Executive Order No. 132 are conditions precedent to the valid exercise of the State of its right of eminent domain. As a whole, Executive Order No. 132 is purely an administrative procedure confined within the executive department of the government designed merely to govern and regulate the taking of private properties for public use which may either be by voluntary sale or by donation in favor of the government. Nothing is provided in said executive order expressly or impliedly making the procedures therein enumerated as conditions precedent to the valid exercise by the government of the right of eminent domain by filing the proper action in court. As stated, Executive Order No. 132 was intended merely to govern the taking of private property short of judicial action either by purchase or donation. Being so, the same cannot limit or circumscribe the sovereign and inherent right of the State to expropriate private property through the Courts.

Moreover, there has been substantial compliance with the requirements of Executive Order No. 132; because negotiations for the purchase of the parcels were conducted between Victor Luis, the principal of the proposed agricultural school, and Mrs. Avelina L. Osias on one hand, and the defendants-appellants on the other, which did not result in a voluntary sale by the defendants-appellants for lack of agreement on the just compensation for the parcels.

Paragraph (a) of Executive Order No. 132 provides that negotiations shall be conducted by the "Director of Public works, city or district engineer, or other officials concerned x x x". The last term can comprehend the principal of the proposed agricultural institution.

Furthermore, the unqualified withdrawal by appellants of the amount of P100,000.00 deposited in court by the plaintiff as provisional value of the lots subject of expropriation, constituted recognition on their part of the right of the government to expropriate the lots (*Republic v. Pasicolan*, May 31, 1961, 2 SCRA 626).

If the unconditional withdrawal of the amount deposited as provisional value precludes the defendants-appellants from questioning the right of the plaintiff to expropriate, it must necessarily follow that said withdrawal also estops defendants-appellants from raising any objection to the manner and propriety of the exercise by the plaintiff of the right of expropriation (18 *American Jurisprudence* 634-635; *Francisco's The Revised Rules of Court in the Philippines*, Vol. IV-B, pp. 411-412).

There can be no debate that due process was observed in the instant case. Likewise, education is public use or public purpose. Republic Act No. 2692 expressly authorizes the establishment of the La Union Regional Agricultural School within the Province of La Union and the acquisition of a suitable site therefor. The inadvertent omission of the term Regional in the complaint for expropriation could not nullify the expropriation of the lands of defendants-appellants. Such error in the complaint does not amend the law and can easily be corrected without affecting the validity of the proceedings.

II

The valuation of the lots must be fair and just, not only to the owner but also to the taxpayers who are to pay for it. Appellants are entitled to receive only the value of what they have been deprived of, and no more; because to award them less, would be unjust to them, and to award them more, would be unjust to the public (27 *Am. Jur.*, 2nd s 266, footnote 17 pp. 52-53).

The three commissioners appointed by the trial court to determine the fair market value of the lots did not reach a consensus as to the classification of the land, the allocation of areas as to each class, and the fair market value of each class of land.

Commissioner Rogelio F. Balagot found and recommended as follows:

Classification

Area ha.

Unit Price

Amount

1. Irrigated Riceland

70

P8,500.00

P 595,000.00

2. Upland Rice

66

3,500.00

231,000.00

3. Orchard Land

52.0785

1,200.00

50,494.20

4. Pasture Land

90.6695

1,000.00

90,669.50

5. Forestland

70

1,100.00

77,000.00

TOTAL

338.7480 has.s

P1,044,163.70

and, after adding to the above amount the sum of P1,712.00, representing improvements, finally recommended the amount of P1,045,876.30, less P100,000.00 earlier withdrawn by appellants, to earn legal interest until fully paid (pp. 271-282, ROA, Vol. I, rec.).

Commissioner Pablito M. Rojas appraised the lands as follows:

"Land Classification

Total

Hectares

Market

Value sq. meter

Total

Market Value

1. Irrigated Palay Land

65.0000

P1.00

P 650,000.00

2. Upland Palay

66.0000

0.30

198,000.00

3. Orchard

38.0785

.25

95,200.00

4. Pasture Land

95.6695

.10

95,669.50

5. Forestry Compound

5.0000

.30

15,000.00

6. Forest Land

65.0000

.15

97,500.00

7. Barrio Compound

4.0000

.50

20,000.00

TOTAL

338.7480

P1,171,369.50"

and after considering some factors, like the fact that the lots are titled, said commissioner finally recommended "the amount of P1,407,856.00, the same to bear interest at the legal rate from the date of possession by the plaintiff to the date the amount is actually paid" (pp. 160-166, ROA, Vol. I, rec.).

Commissioner Eufemio Molina adopted the following classification and allocation:

"(a) With respect to Lot No. 1(Exh. 'B'), into --

1. Unirrigated riceland with an area of 120,000 meters.
2. Upland rice with an area of 85,000 sq. meters.
3. Pasture land with area of 2,801,695 sq. meters.

"(b) With respect to Lot No. 2(Exh. 'B-1'), into --

1. Unirrigated riceland with an area of 120,000 sq. meters.
2. Upland rice with an area of 85,000 sq. meters.
3. Pasture land with an area of 175,785 sq. meters."

and, making a mass valuation of the entire two lots, recommended the amount of P135,000.00 by taking into consideration the amount which to him is the price the government is willing to pay: P100,000.00 (actually the provisional value deposited by the government to take possession of the lots); P170,000.00 which according to him is the amount for which the defendants are willing to part with their lots (actually P190,000.00 including the bank mortgage liability of the land) and also the fact that the lots in question were acquired by the defendants in 1957 for the amount of only P50,000.00 from Felipe Nebrija and his children (pp. 71-78, ROA, Vol. I, rec.).

Before the filing of the complaint, a Provincial Appraisal Committee composed of Provincial Assessor Ramon Zandueta as chairman, and as members, Provincial Highway District Engineer Oscar Data and Provincial Auditor Gabino Ferrer, was constituted. On November 16, 1962, this committee conducted an ocular inspection of the property, and on the same day, submitted its Resolution No. 13, Exhibit A, which classified defendants' property as follows:

"60 hectares riceland at

P800.00 per hectare

- P48,000.00

278.7480 hectares pasture land

at P150.00 per hectare

- 41,812.20

TOTAL

- P89,812.20"

(p. 135, ROA, Vol. I, rec.). The aforesaid resolution was rejected as having been done in haste (pp. 135-136, ROA, Vol. I, rec.).

According to Provincial Assessor Zanduetta, the amount of P89,812.20 is the assessed value of the property, which assessed value is the appraised value in expropriation cases (p. 141, ROA, Vol. I, rec.).

La Union agriculturist Pio A. Tadina was requested by Provincial Assessor Ramon Zanduetta to appraise the property. Pursuant to said request, Mr. Tadina went to the property thrice and thereafter submitted his classification and valuation, as follows:

"1. 40 hectares riceland

P60,000.00

P200,000.00

2. 20 hectares riceland

20,000.00

60,000.00

3. 80 hectares pasture land

40,000.00

80,000.00

4. 120 hectares fruit trees

60,000.00

120,000.00

5. 72 hectares 2nd growth

forest

78,000.00

156 000.00

TOTAL

P258,000.00

P616,000.00"

(p. 145, ROA, Vol. I, rec.).

When the complaint was filed, the improvements on the property consisted of the following:

"20 mango (bearing) @ P30 ea. - - - -

P800.00

21 coconut (bearing) @ P5 ea. - - - - -

105.00

4 coconut (non-bearing) @ P2 ea. - - -

8.00

4 caimito (star apple) @ P8 ea. - - - - -

32.00

2 Chesa @ P5 ea. - - - - -

10.00

4 Kasuy @ P2 ea. - - - - -

8.00

12 bamboos (heavy) @ P0.30 ea. - - -

3.60

1 bamboo (light) @ P0.10 ea. - - - - -

.10

1 breadfruit @ P5 ea. - - - - -

5.00

1 jackfruit @ P4 ea. - - - - -

4.00

1 guayabano @ P1 ea. -----

1.00

6 orange (non-bearing) @ P1 ea. ----

6.00"

P982.70

(pp. 16-17, ROA, Vol. I, rec.)

Mr. Luis Victor, principal of the La Union Regional Agricultural School, testified that there were around 30 fruit-bearing mango trees, some coconut fruit-bearing trees, a few star apple trees, some cashew fruit-bearing trees and banana plants (p. 139, ROA, Vol. I, rec.).

Both Attys. Pablito M. Rojas and Rogelio Balagot, commissioners representing respectively the defendants-appellants and the trial court, agreed that the value of the improvements on the property was then P1,712.60 (pp. 163, 280-281, ROA, Vol. I, rec.).

According to Commissioner Eufemio R. Molina for the plaintiff,

x x x Starting from the town proper of Bacnotan, one can reach the property by passing through the barrios of Cabaroan, Say-oan, Salincob, Casiaman and finally Sapilang. The place is about 2.5 kilometers north of the Poblacion along the National Highway up to the so-called Cabaroan junction. From this junction is about a 2-kilometer feeder road going eastward. And from this lateral road is an unsurfaced road of approximately 1.5 kilometers leading to the site of the Agricultural School. However, before the school took possession of the land on May 4, 1963, the place was not accessible at all by any motor vehicles, and that the only means was to hike over rice paddies, trails and creeks.

"Topographically, the property of defendants is situated on a high elevation. It consists of mountains and hills forming a semi-circle, and sloping on the sides towards an elongated portion or valley like depression which is level and developed into ricefields. Because of its high elevation or location, the climate of the place is healthful, temperate and especially invigorating when one is near or within the vicinity of the waterfall or spring. The climate is of the kind which the Weather Bureau would call the Type I climate; that is, the place has two distinct seasons, a dry season from December to June, when there are light rains or no rain at all and wet season, from June to December, when rains are abundant, heavy and frequent. The soil of the place is good. It has a luxuriant vegetation.

"The property as per Original Certificate of Title No. 0-420 (Exh. '9-f') is divided into 2 lots; Lot No. 1 has an area of 3,006,695 square meters and covered by Tax Declaration No. 33043 (Exh. 'b'); and Lot No. 2 which is under Tax Declaration No. 33043 (Exh. 'B-1') has an area of 380,785 square meters, making a total land area of 338.7480 hectares, with an assessed value of P42,120.00.

"Aside from the waterfall or spring within the property, there are also fruit trees, scattered bamboo groves, banana trees in patches, forest area, upland and pasture land. The bamboo and banana lands, however, cannot properly be considered as such because the land upon which they grow is not planted principally for such growth. The improvements on the forestry area have been introduced by the government, notably the Reforestation Administration of the Department of Agriculture and Natural Resources. (Exh. 'D' and Exh. 'I'). The other improvements on the land have been itemized in the complaint filed before the Court." (pp. 69-71, ROA, Vol. I, rec.).

The foregoing findings do not appear to be disputed.

Defendant-appellant Celestino Juan himself, stated in his letter of January 28, 1963 that his property is worth P190,000.00 (including his bank loan), which he later increased to P300,000.00 in his motion for reconsideration filed on April 24, 1963. It should be recalled that over three months earlier, appellant Celestino Juan, in his letter dated January 2, 1963 to the Provincial Appraisal Committee, evaluated his property at approximately P329,374.00, stating that he spent P15,000.00 for survey, P5,000.00 for registration and P20,000.00 for bulldozing and levelling; that 60 hectares are first class which should be worth P3,000.00 per hectare; and that the remaining portion of 278.748 hectares should command at least P500.00 per hectare (pp. 35-37, ROA, Vol. I, rec.).

The last evaluation in the amount of P300,000.00 judicially given by the defendants-appellants is a declaration and admission binding on them (Sec. 22, Rule 130, Revised Rules of Court), there being no showing that they were laboring under an error of fact. No compelling reason has been advanced to justify their being relieved from the binding effects of such admission. As We ruled in the Republic of the Philippines versus Narciso [99 Phil. 1031 (1956)], "the owners' valuation of the property may not be binding on the Government or the Court, but it should at least set a ceiling price for the compensation to be awarded. Moreover, the prices to be considered are those at the beginning of the expropriation, not the increased values brought about by the improvements and actuations of the Government after occupying the premises" (Re-affirmed in RP v. PNB, April 12, 1961, 1 SCRA 957-963).

When the defendants-appellants withdrew in 1963 the P100,000.00 deposited by the government, they already obtained a clear profit of P10,000.00 on their alleged investment of P90,000.00 consisting of P50,000.00, the price they allegedly paid for the property in 1957, and P40,000.00 allegedly representing expenses for levelling, surveying and securing their Torrens title of the property from 1957 to 1959. The balance of P392,000.00 - consisting of P200,000.00 and interest of P192,000.00 at 6% annually for 16 years from May 4, 1963 to 1979 - is all profit, even during times of inflation. From 1957 until May 4, 1963, when the government took possession of the property, the defendants-appellants paid realty taxes on the basis of their tax assessment of only P42,120.00 (P89,812.20 according to Provincial Assessor Zanduetta [p. 141, ROA, Vol. I, rec.]). Atty. Pablito M. Roxas and Atty. Rogelio Balagot, appraisal commissioners respectively for appellants and the trial court, conceded that the value of the improvements was only P1,712.00 in 1963. To give them more than a million pesos - about P1,111,360.00 - on the basis of the appraisal of P616,000.00 by provincial agriculturist Pio Tadina, including interest for 16 years at 6% per annum, would be to mulct the tax-paying public, as the said amount is over ten times or over 1000% on their alleged original investment of P90,000.00 from 1957 to 1959. Precisely, in their reply dated January 28, 1963, their selling price was only P170,000.00 net to them, exclusive of their bank debt of P20,000.00.

The appraisal of Provincial Agriculturist Pio Tadina, Chief Agricultural Appraiser Rafael T. David of the DBP, Commissioner Balagot and Commissioner Rojas, respectively, in the amount of P616,000.00, P1,006,400.00, P1,044,163.70, and P1,171,369.50, is patently extravagant, considering that the property was bought in 1957 (1956 as claimed by appellants [pp. 112, 126, Appellants' Brief]) for P50,000.00 only and the value of the improvements did not exceed P1,712.60 as of May 4, 1963, when the government took possession. It is doubtful that the property would increase in value over 6 times or over 10 times or by over 600% or over 1,000% in six years, from 1957 to 1963, with the expenses for surveying, securing the Torrens title over and bulldozing said property amounting to not more than P40,000.00, already included in the computation (p. 36, ROA, Vol. I, rec.).

It should be emphasized that the property is about 6 kilometers from the poblacion of Bacnotan; that on May 4, 1963, when the government took possession of the same, it was not accessible at all by any motor vehicle and can only be reached by hiking through rice paddies, trails and creeks; that it was not fully developed; and that it was

then assessed at P42,120.00 (P89,812.20 according to Provincial Assessor Zanduetta), although it has a waterfall or spring.

According to Commissioner Molina, the property has 24 hectares of unirrigated rice land and 17 hectares dedicated to upland rice with the greater portion of 297.748 hectares as pasture land (pp. 71-72, ROA, Vol. I, rec.). Pio Tadina reported that 60 hectares are riceland, 80 hectares pasture land, 120 hectares with fruit trees and 78 hectares second growth forest (p. 146, ROA, Vol. I, rec.). According to Rafael T. David, who was requested by appellant Juan to make an appraisal (p. 145, ROA, Vol. I, rec.), 70 hectares are riceland, 66 hectares for upland rice, 38.0785 hectares for orchard, 90.6695 hectares pasture land, 5 hectares forestry compound, 65 hectares forest land and 4 hectares barrio compound (p. 150, ROA, Vol. I, rec.).

Even under the classification of Commissioners Balagot and Rojas, as aforestated, about 50% of the property is not improved by man nor dedicated to agriculture, for about 95 hectares are pasture land and 70 hectares are forest land.

The sales of farm lots in the vicinity of the property in question from April, 1959 to May 14, 1962 (pp. 74-75, 152-153, 156-157, ROA, Vol. I, rec.), do not provide an adequate basis for appraisal of the property of defendants-appellants; because such sales involved very small developed areas of less than a hectare each, which small lots usually command better prices within the reach of the ordinary buyer. The instant case involves the condemnation of over 338 hectares.

III

It is argued that appellants' judicial admission of P300,000.00 as the provisional value of their lots, should not bind them, because said admission refers only to the provisional value of the said lots and not as an admission of the actual - fair and just - value of the lots. The provisional value fixed by the Court pursuant to Section 2 of Rule 67 of the Rules of Court, is the provisional value that does not bind the land-owner. But when the landowner himself fixes the provisional value, he should abide thereby in obedience to the rule that admissions in pleadings bind the party making them.

Section 2 of Rule 67, New Rules of Court reads:

"Entry of plaintiff upon depositing value with the National or Provincial Treasurer - Upon the filing of the complaint or at any time thereafter the plaintiff shall have the right to take or enter upon the possession of the real or personal property involved if he deposits with the National or Provincial Treasurer its value, as provisionally and promptly ascertained and fixed by the Court having jurisdiction of the proceedings, to be held by such treasurer subject to the orders and final disposition of the court. x x x."

Rule 69, Section 3 of the Old Rules of Court under which the present case was filed contained a similar provision. (See also *Visayan Refining Co. v. Camus*, 40 Phil. 550-556 [1919] and *Manila Railroad Co. V. Paredes* (31 Phil. 118-142 [1915])).

For emphasis, We repeat that the price of P300,000.00 was the provisional value fixed not by the trial court, but by the defendants-appellants as owners in their motion for reconsideration filed on April 24, 1963. The provisional value fixed by the trial court in its order of April 15, 1963, was only P90,793.70, the reconsideration of which the owners sought from the trial court. In its order of April 26, 1963, the trial court fixed the provisional value at P100,000.00. The trial court, in its challenged decision of September 28, 1964, finally fixed the value at P190,000.00, which is still more than double the alleged capital investment of P90,000.00 allegedly paid by the owners for the purchase of the property, levelling and expenses for survey and titling of the property from 1957 to 1959. In his own letter of January 28, 1963, where he fixed his selling price at P170,000.00 net to him (plus

P20,000.00 bank mortgage on the property), defendant-appellant Celestino Juan stated that the best offer he had for the property was only P200,000.00.

While it may be true that the value provisionally fixed by the trial court "x x x does not necessarily represent the true and correct value of the land x x", it is equally true that the said amount provisionally fixed may yet turn out to be the true and correct value of the lots approximating the "just compensation" requirement of the Constitution. In fact, the same may also turn out to be more than the true and correct value of the property condemned by the government (see 27 AM JUR 2d 111, footnote 16).

Furthermore, it can be justifiably inferred that when appellants themselves proposed on April 24, 1963 the amount of P300,000.00 as the provisional value of their lots, they were referring actually to the highest value their lots could command at that time, notwithstanding their very speculative and extravagant claim in the same pleading (where they made the P300,000.00 proposal) that the "fair market value of (the) property should at least be fifty centavos x x per square meter or P5,000.00 per hectare."

Consider the following circumstances:

1. In his reply dated January 28, 1963 to the letter of Mr. Victor Luis, appellant Juan stated that the selling price of his land was "P170,000.00 net to me exclusive of the amount of my obligation to the China Banking Corporation where the property is mortgaged", or P190,000.00 including the mortgage debt of P20,000.00 (pp. 382384, ROA).
2. Appellants-spouses acquired the lots in 1956 (as claimed by appellants) or 1957 (as stated in the decision of the trial court) from Felipe Nebrija and his children for only P50,000.00.
3. The lots in question were taxed on the basis of an assessment of only P42,120.00.
4. In his letter dated January 2, 1963 to the Provincial Appraisal Committee, appellant Celestino Juan evaluated his lots at approximately P319,374.00.

As a matter of fact, appellant should be bound by his P190,000.00 admission. In the light of the above-mentioned circumstances, the said amount of P190,000.00 is already just and reasonable.

Appellants' claim that they were forced to make the P190,000.00 offer because they were then under a pressing need for money to defray expenses in connection with certain criminal cases involving appellant Ana to settle said cases, can hardly invite belief; because (1) appellant Celestino Juan did not aver this alleged urgent need for money in his letter of January 28, 1963, and (2) notwithstanding appellant Juan's claim in that same letter of January 28, 1963 that an interested buyer of the said lots was "ready to sign the contract for a price of P200,000.00 payable in cash or at least a period of ten (10) days", appellant did not dispose of the same to said interested buyer, despite the lapse of ten days - during which he could have had the money - from the receipt by Victor Luis of said letter. Moreover, the same letter belies his alleged dire need for money to settle the alleged criminal cases against his wife for he stated therein that he had then a pending DBP loan application for P4,102,000.00 for a dairy farm, and that by reason of his connection with DBP officials, his application would be favorably considered for P1,000,000.00 with the expropriated property as collateral together with the dairy farm equipment, facilities and stock.

Being a lawyer, appellant Celestino Juan, knew that the reputation of his wife and for that matter his family would be better protected and preserved by her acquittal after trial than by settlement of the case (see pp. 107-108, Appellants' brief). Compromise of a criminal case, other than a private offense, does not remove the criminal liability and the concomitant stigma. Settlement of a criminal case, unlike acquittal, will not stop the people from talking about the guilt of the accused therein.

Of course "judicial or non-judicial admissions made by condemnees as to the value of their properties that are to be expropriated should not be deemed conclusive if such admitted value be unjust, because the Constitution imperatively requires the payment of 'just compensation'". But in the instant case, it could hardly be said that the amount of P300,000.00 is unjust to the appellants. The delay in the payment is compensated by the liability for 6% interest per annum, covering sixteen (16) years - from 1963 to 1979 - on the balance of P200,000.00 (on May 7, 1963, appellants withdrew the P100,000.00 deposit) amounting to P192,000.00. The total balance due appellants would be P392,000.00. The total payment to them then would be P492,000.00. Beyond this price, the value would be excessive and unjust to the State and the taxpayer (27 Am. Jur. 2d 52-53 § 266, footnote 17).

It must be pointed out that the most reliable pieces of evidence in the records relative to the just compensation to be paid herein appellants are those hereinbefore enumerated, namely, appellants' own evaluation in 1963, the acquisition cost and the tax assessment. This is so because the Committee failed to arrive at an acceptable valuation, not to mention the fact that the individual reports of the commissioners of the Appraisal Committee did not undergo the indispensable requirement of hearing before the trial court. It must be herein stressed that almost all the evidence enumerated earlier are in the nature of admissions by the owner, which kind of evidence under existing jurisprudence occupies a preferred position in the realm of proof of just compensation and valuation in eminent domain.

Even the purchase price of P50,000.00 paid in 1956 or 1957 by appellants for the lots sought to be condemned in 1963 is generally held admissible as evidence of the lots' fair market value, unless such purchase is too remote in point of time from the condemnation proceedings or some special consideration induced the sale at less than the true market value (29-A C.J.S. 1203-04).

Similarly, the assessed valuation of land made by tax assessors when required by the law, and the owner's own valuation may be considered together with other proofs in the determination of the just value of the lots condemned (29-A, C.J.S. 1201-1202).

As aforestated, appellants paid realty taxes on the property on the basis of an assessed valuation of only P42,120.00, with improvements worth only P1,712.00. On January 28, 1963, appellants' offer was P190,000.00, then P300,000.00 on April 24, 1963, as provisional value, after extravagantly claiming that the property is worth the fantabulous price of at least P5,000.00 per hectare or a total of P1,693,040.00. Not even the irrigated rice lands along the national highway in Nueva Ecija, the home province of appellants, could command that price of P5,000.00 per hectare in 1963. And the lands in the case at bar are in La Union, hilly, and away from the national highway without direct access to any feeder road.

In our jurisdiction, the statement of the value of his property by the owner in the tax declaration shall, since 1940 under CA. No. 530, constitute prima facie evidence of the real value of the property in expropriation proceedings by the Government and its instrumentalities.

In short, it could therefore be said - taking into consideration the acquisition cost of P50,000.00 in 1956 or 1957 of the lots subject matter of the case, the alleged cost of P40,000.00 for levelling, surveying and titling thereof from 1957 to 1959, the assessed value as well as the tax declarations of the appellants with respect to these lots of only P42,120.00, the improvements worth P1,712.00 in 1963, and the several admissions or estimates made by the appellants with respect to the value of the lots ranging from P190,000.00 to P319,374.00 to P300,000.00 to P1,693,040.00 (P5,000.00 per hectare) - that the amount of P300,000.00 is just to appellants, not to mention that in addition to said amount a considerable interest of P192,000.00 for 16 years (1963-1979) would be paid on the unpaid balance of P200,000.00 from May 4, 1963 by the Government, or a grand total of P492,000.00, which is over five (5) times or over 500% their capital investment of P90,000.00 from 1956 to 1959. Anything beyond this

amount is grossly excessive and patently unjust to the government and the tax-paying public (29 Am. Jur. 2d 52-53 § 266, footnote 17).

It cannot be seriously claimed by appellants that the declarations of value of the lots in Exhibits B and B-1 were not made by them (pp. 346--347, ROA), considering that said tax declarations were made only after the title over the lots was obtained by appellants. Exhibits B and B-1 clearly indicate that appellants and no one else made the said declarations (p. 182, ROA).

Likewise, the valuation of Agriculturist Tadina should not be accorded too much weight for the following reasons:

1. His valuation report is based purely on his own estimate and opinion; hence in his letter to Atty. Ramon Zanduetta which embodied his evaluation, he therein stated that "x x You will note hereunder the technical analysis of the undersigned with regards to the area under consideration as a personal opinion x x x."
2. The factors he considered in evaluating the lots in question could hardly justify this valuation in the amount of P616,000.00. Hence: "The 80 hectares of pasture land if properly grazed and managed is capable of maintaining no less than 400 heads of cattle. The 120 hectares of fruit trees is suitably adapted to cacao, coffee, bananas, mangoes, pineapple, citrus, avocado, rambutan, lanzones, etc. The 78 second growth forest if only planted to 'alnos Mirando' a Japanese kind of forest tree will also increase the volume of spring water for irrigation purposes. x x x The second growth forest land has been evaluated higher than the pasture and fruit tree lands because forest lands do not only conserve soil erosion and soil fertility but also provide organic matter for the irrigated riceland. It will also conserve and promote the development of spring besides the value of the trees and other forest by-products which are now available as sources of income" (pp. 39-42, ROA).
3. Tadina is not "an experienced and competent appraiser" in the field of eminent domain or expropriation cases. When cross-examined by the Fiscal of the Province of La Union, he declared that the appraisal he made for the property in Damortis, La Union, and that in Aringay was only with respect to its adaptability and suitability for agriculture and not for purposes of determining the fair and reasonable value (tsn, pp. 505-506, pp. 201, 202, ROA; see also pp. 108-109, ROA). His appointment as Chairman of the Appraisal Committee for public lands in La Union did not qualify him as an "experienced and competent appraiser" in expropriation cases; because lands involved therein are public lands and the appraisal or determination of the fair market value of said lots are not for purposes of expropriation cases (p. 202, ROA). Neither would his participation in the Poro Point expropriation add to his qualifications as an appraiser in expropriation cases, because he was merely therein consulted (p. 202, ROA).
4. His classifications were made by estimates and not by actual measure-ments (tsn, p. 514; p. 204, ROA).

That the land "had potential for conversion into subdivision" should not be considered in the valuation of the lots in question; because (1) the records of the case do not show conclusive evidence as to the subdivision potentiality of the lots; and (2) as held in *Manila Electric Co. v. Tuason*, "agri-cultural land should be appraised as such and not as potential building site" (60 Phil. 663 [1934], reiterated in the case of *The Municipal Government of Sagay v. Jison, et al.*, 104 Phil. 1026, 1033 [1958]).

Republic vs. Castelv lends no support to appellants' position; because in the *Castelv* case, there was a finding by this Court that "x x x the lands in question had ceased to be devoted to the production of agricultural crops, that they had become adaptable for residential purposes, and that the appellees had actually taken steps to convert their lands into residential subdivisions even before the Republic filed the complaint for eminent domain (p. 355, 58 SCRA).

As already noted above, the individual valuations made by the three commissioners are of little value, if at all; because the same were irregularly prepared, not to mention the fact that the same were not subjected to the

indispensable hearing requirement before the trial court - wherein the commissioners could have been cross-examined on their respective reports, the bases thereof, how they reached their conclusions, and their qualifications, and related matters - vital to the credibility, or lack of it, of their valuations.

It is urged that, because the value of the peso at the time of the taking in 1963 by the government of the lots of appellants and the value of the peso today when the just compensation to be awarded to appellants is to be paid, are no longer the same, this factor should be considered in the determination of the final award to be given; and that even if WE consider appellants as having judicially admitted the amount of P300,000.00 as the price of their property, the doubling of this sum at this time is justified.

Actually, under this proposition, the amount to be doubled should only be the balance of P200,000.00, for appellants had withdrawn and made use of the P100,000.00 deposited by the government at the inception of this case.

It is of course true that the value of the peso in 1963 and at present is no longer the same. But this does not justify US in considering that factor nor in doubling the amount judicially admitted by appellants; because such contingency is already well-taken care of by the interest to be awarded to appellants. For that is the true role or nature of interest in expropriation cases; because said interest is not contractual in nature nor based on delict or quasi-delict but one that "runs as a matter of law and follows as a matter of course from the right of the landowner to be placed in as good a position as money can accomplish, as of the date of the taking" (30 CJS 230). Stated otherwise: "Where the payment of compensation does not accompany the taking of property for public use but is postponed to a later date, the owner of the property is ordinarily entitled to the award of an additional sum which will compensate for delay (cases cited) or which will, in other words, produce the full equivalent of the value of the property paid contemporaneously with the taking" (29-A CJS 762). Under this view, the interest awarded is deemed part of the just compensation required to be paid to the owner (27 Am. Jur. 112). This appears to be the prevailing view in the United States. As aptly and clearly explained in one American case:

"Article 1 § 18 of the Constitution of the State of Oregon, provides in part as follows: 'Private Property shall not be taken for public use x x x without just compensation.' The Fifth Amendment to the Constitution of the United States contains substantially the same provision, 'nor shall private property be taken for public use, without just compensation.' In construing this identical language of the Federal Constitution the Supreme Court of the United States holds as follows: 'It is settled by the decision of this court that just compensation is the value of the property taken at the time of the taking (citing cases). And, if the taking precedes the payment of compensation, the owner is entitled to such addition to the value at the time of the taking as will produce the full equivalent of such value paid contemporaneously. Interest at a proper rate is a good measure of the amount to be added' (numerous cases cited omitted). In these cases and others, the proper rate of interest is held to be the legal rate of interest prevailing in the jurisdiction where the land is located. The Supreme Court of West Virginia holds on the authority of these decisions and also of *Dohany vs. Rogers*, 281, U.S. 362, 50 SCt. 299. 74 L.Ed. 904, 68 ALR434, that denial of the right of interest would be a violation of the fourteenth Amendment to the Federal Constitution, *Simons v. Dillon*, 119 W.VA 284, 193 S.E. 331, 113 A.L.R. 787. The following texts are authority for the allowance of such interest as part of the damages sustained by the owner of the land. *Nichols on Eminent Domain* 653, § 216 (3d ed.); *Lewis, Eminent Domain* (3d ed.) 1320, §742; 18 AM JUR., *Eminent Domain*, §272" [*State vs. Deal*, 233 P 2d 242, 251-252, underscoring supplied).

This view is also well-discussed by JAHR in his book, *Eminent Domain - Valuation and Procedure* (1953 ed.), Chapter XXVIII - Payment of Compensation, pp. 286-301; and by ORGEL in his book, *Valuation Under Eminent Domain*, Vol. I (1953 ed.) on the subject of interest as part of just compensation and as a penalty for delay in payment (Sec. 5, pp. 19-33).

In this jurisdiction, a study of the cases decided by this Court with respect to the award of interest to the

condemnee where there is a gap of time between the taking and the payment, shows that We tend to follow the view just discussed. The first case - it would appear - where the question of interest arose in this jurisdiction was the Philippine Railway Co. vs. Solon, February 20, 1909, 13 Phil. 35-45. The two issues taken there in connection with interest were: (1) From what time should interest be reckoned, from time of the taking possession of the property by the government or from judgment of the trial court; and (2) whether on appeal, appellant-condemnee is entitled to interest during the pendency of the appeal. In disposing of the issues, the Court, relying heavily on American jurisprudence, appears to treat interest as part of just compensation and as an additional amount sufficient to place the owner "in as good a position as money can accomplish, as of the date of the taking". Thus, the Court declared:

"It remains to consider what interest the defendant is entitled to from the last named date. It appears from the record that the company opposed the confirmation of the award. Its objections were so far successful that the court reduced the amount awarded by the commissioners. The owner was compelled to appeal and in his appeal has been so far successful as to reverse the action of the court below. Under these circumstances we think he is entitled to interest on the award until the final determination of this proceeding. What the result would be if he had failed in his appeal, we do not decide. The interest thus allowed will be interest upon the amount awarded by the commissioners from the 2d day of February, 1907, until payment" (13 Phil. 40-44, underscoring supplied).

The Solon case thereafter became the basis of award of interest on expropriation cases like Philippine Railway v. Duran, 33 Phil. 159 [1916]; Manila Railroad Co. v. Alano, 36 Phil. 501 [1917]; Manila Railroad Co. v. Attorney General, 41 Phil. 177 [1920]; Alejo v. Provincial Government of Cavite, 54 Phil. 304 [1930]; Tayabas v. Perez, 66 Phil. 470 [1938]; Republic v. Gonzales, 94 Phil. 957 [1954]; Republic v. Lara, 96 Phil. 172 [1954]; Phil. Executive Commission v. Estacio, 98 Phil. 219 [1956]; Republic of the Philippines. v. Deleste, 46 al., 99 Phil. 1035 [1956]; Republic v. Garcellano, 103 Phil. 237 [1958]; Yaptinchay, 108 Phil. 1053 [1960]; Republic v. Tayengco, 19 SCRA 900 [1967], and many others, until the matter of payment of interest became an established part of every case where taking and payment were not contemporaneously made.

And finally, We confirmed our adherence to the prevailing view in the United States when in the case of Urtula vs. Republic, January 31, 1968, 222 SCRA 477, 480), We declared, through Mr. Justice J.B.L. Reyes, that:

"x x x Said interest is not contractual, nor based on delict or quasi-delict, but one that --

'runs as a matter of law and follows as a matter of course from the right of the landowner to be placed in as good a position as money can accomplish, as of the date of the taking" (C.J.S. 230; see also Castelvi case, supra, and Republic v. Nable-Lichauco, 14 SCRA 682).

In this connection, it must be pointed out that the judicial notice taken by this Court in the Castelvi case (supra, 363) "x x x of the fact that the value of the Philippine peso has considerably gone down since the year 1959", was premised not on the par value of the peso to the dollar, but on the dollar-peso exchange rates at the time of the taking of the lots and at the time of the payment thereof.

In the case of Manuel & Co. vs. CB (38 SCRA, 533-542 [1971]), We distinguished between par value of the peso and the dollar-peso exchange rate. The par value of the peso to the dollar - two pesos to one dollar - is fixed by law and remains intact (see 48, R.A. 265, 1948; Sec. 6, CA No. 699, 1945). Hence, while there was a change of the exchange rate, the par value of the peso as established by law remains unchanged.

Such par value can only be altered by the President of the Philippines upon proposal of the Monetary Board with five members concurring and approved by Congress (Sec. 49[3] RA No. 265).

On the other hand, the rate of exchange or exchange rate is the "price, or the indication of the price, at which one

can sell or buy with one's own domestic currency a foreign currency unit. Normally, the rate is determined by the law of supply and demand for a particular currency" (38 SCRA 533-542).

It is submitted that the Castelvi doctrine on the value of our peso is of doubtful legality, considered in the context of the Central Bank case, above discussed. In effect, the Castelvi ruling has devalued our peso; a case of devaluation by judicial fiat.

In the light of the foregoing, the de facto devaluation of our peso should not be taken into account in the final determination of the value of the lots, subject matter of the case.

In the 1970 case of *Dizon-Rivera v. Dizon* (33 SCRA 554-557 [1970]), WE ruled against appellants and held that the decrease in the purchasing value of the Philippine peso provides no legal basis or justification for completing their legitime with real properties of the estate instead of being paid in cash, reasoning thus:

"Neither may the appellants legally insist on their legitime being completed with real properties of the estate instead of being paid in cash, per the approved project of partition. The properties are not available for the purpose, as the testatrix had specifically partitioned and distributed them to her heirs, and the heirs are called upon, as far as feasible to comply with and give effect to the intention of the testatrix as solemnized in her will, by implementing her manifest wish of transmitting the real properties intact to her named beneficiaries, principally the executrix-appellee. The appraisal report of the properties of the estate as filed by the commissioner appointed by the lower court was approved in toto upon joint petition of the parties, and hence, there cannot be said to be any question - and none is presented - as to fairness of the valuation thereof or that the legitime of the heirs in terms of cash has been understated. The plaint of oppositors that the purchasing value of the Philippine peso has greatly declined since the testatrix' death in January, 1961 provides no legal basis or justification for overturning the wishes and intent of the testatrix. The transmission of rights to the succession are transmitted from the moment of death of the decedent (Article 777, Civil Code) and accordingly, the value thereof must be reckoned as of then, as otherwise, estates would never be settled if there were to be a revaluation with every subsequent fluctuation in the values of the currency and properties of the estate. There is evidence in the record that prior to November 25, 1964, one of the oppositors, Bernardita, accepted the sum of P50,000.00 on account of her inheritance, which, per the parties' manifestation, 'does not in any way affect the adjudication made to her in the projects of partition.' The payment in cash by way of making the proper adjustments in order to meet the requirements of the law on non-impairment of legitimes as well as to give effect to the last will of the testatrix has invariably been availed of and sanctioned (see Articles 955, 1080 and 1104, Civil Code). That her co-oppositors would receive their cash differentials only now when the value of the currency has declined further, whereas they could have received them earlier, like Bernardita at the time of approval of the project of partition and when the peso's purchasing value was higher, is due to their own decision of pursuing the present appeal" (underscoring supplied).

Additional distinction between the present case and the Castelvi case:

The proceedings before the commissioners and before the trial court in the Castelvi case were all in accordance with the provisions of the rules, while this is not so in the present case; because the commissioners herein did not turn out a valid report, as the commissioners made their own and separate reports and no consensus was reached by them on the classification of the lots, allocation of areas to each class, and the fair market value of each class and the lots as a whole. Furthermore, no hearing on the reports of the commissioners was made by the trial court in the case at bar, because of the motion of the herein appellants to submit the same without any (hearing).

The finding of the trial court, which was sustained by this Court, that the lots involved in the Castelvi case were residential, was supported by and based on the factual findings of the commissioners, who were unanimous thereon, and the Provincial Appraisal Committee of Pampanga (58 SCRA 356-359); while in the present case no one among the commissioners classified the lots or any portion thereof as residential or one with

residential/subdivision potentiality. With respect to Provincial Board Resolution No. 13 on the report of the Provincial Appraisal Committee of La Union, the same was disregarded for having been passed in haste.

In the present case, commissioner Balagot classified the two lots into irrigated riceland, upland riceland, orchard land, pasture land and forest land; Commissioner Rojas similarly classified the lands as above, but adding thereto forestry compound and barrio compound; while Commissioner Molina classified the lots into unirrigated riceland, upland riceland and pasture land. It cannot be seriously claimed that the lots involved in the present case is suitable as, or have potentials for conversion into, a residential subdivision simply because a 4-hectare area of the same was considered by a member of the provincial appraisal committee as residential. In fact, said 4-hectare area was reflected in the Provincial Appraisal Committee Report, Resolution 13 (Exh. A) as grazing land, not as a residential one (see pp. 138, 173, ROA; pp. 67, 143, Appellants' Brief). Furthermore, none among the commissioners believed the testimony of the said member on that point as no one among them classified the lots or any portion thereof as residential. The fact that the tenants of appellants previously occupied the said area and constructed houses thereon, does not convert the whole area or the portion thus occupied into a residential one. The residential nature of the lot is not determined alone by the presence or absence of houses thereon (*Republic v. Garcia*, 91 Phil. 46 [1952]). The determination of the true nature of a lot must take into consideration, among other things, the location, topography, kind of soil, fertility or productivity, and surroundings of the lot (*Manila Railroad Co. v. Caligsihan*, 40 Phil. 326 [1919]; *Republic v. Garcia*, supra; *Republic v. Lara*, 50 O.G. 5778 [1954]). Indeed, the evidence relied upon by this Court in concluding that the lots involved in the Castelví case are residential, and not agricultural, shows that:

"x x x Castelví broached the idea of subdividing her land into residential lots as early as July 11, 1956 in her letter to the Chief of Staff of the Armed Forces of the Philippines (Exh. 5-Castelví). As a matter of fact, the layout of the subdivision plan was tentatively approved by the National Planning Commission on September 7, 1956. (Exh. 8-Castelví). The land of Castelví had not been devoted to agriculture since 1947 when it was leased to the Philippine Army. In 1957 said land was classified as residential, and taxes based on its classification as residential had been paid since then (Exh. 13-Castelví). The location of the Castelví land justifies its suitability for a residential subdivision. As found by the trial court, 'It is at the left side of the entrance of the Basa Air Base and bounded on two sides by roads (Exh. 13-Castelví; paragraphs 1 and 2, Exh. 12-Castelví), the poblacion (of Floridablanca), the municipal building, and the Pampanga Sugar Mills are close by. The barrio schoolhouse and chapel are also near (Tsn., Nov. 23, 1960, p. 68).

"The lands of Toledo-Gozun (Lot 1-B and Lot 3) are practically of the same condition as the land of Castelví. The lands of Toledo-Gozun adjoin the land of Castelví. They are also contiguous to the Basa Air Base, and are along the road. These lands are near the barrio school house, the barrio chapel, the Pampanga Sugar Mills, and the Poblacion of Floridablanca (Exhs. 1, 3 and 4-Toledo-Gozun). As a matter of fact, regarding Lot 1-B, it had already been surveyed and subdivided, and its conversion into a residential subdivision was tentatively approved by the National Planning Commission on July 8, 1959 (Exhs. 5 and 6-Toledo-Gozun). As early as June, 1958, no less than 32 men connected with the Philippine Air Force among them commissioned officers, non-commissioned officers, and enlisted men had requested Mr. and Mrs. Joaquin D. Gozun to open a subdivision on their lands in question (Exhs. 8, 8-A to 8-ZZ-Toledo-Gozun)" /58 SCRA 357, underscoring supplied).

In the present case, there is no evidence in the record warranting a conclusion that the parcels involved have potentials for conversion into a residential sub-division. On the contrary, the location, topography and the use to which the lots involved were devoted at the time of the filing of expropriation proceedings in the lower court, indicate that they have none. In his report, Commissioner Molina described the location and topography of the lots as follows:

"x x x Starting from the town proper of Bacnotan, one can reach the property by passing through the barrios of

Cabaroan, Say-oan, Salincob, Casianan and finally Sapilang. The place is about 2.5 kilometers north of the Poblacion along the National Highway up to the so-called Cabaroan junction. From this junction is about a 2 kilometer feeder road going eastward. And from this lateral road is an unsurfaced road of approximately 1.5 kilometers leading to the site of the Agricultural School. However, before the school took possession of the land on May 4, 1963, the place was not accessible at all by any motor vehicles, and that the only means was to hike over paddies, trails and creeks.

"Topographically, the property of defendants is situated on a high elevation. It consists of mountains and hills forming a semi-circle, and sloping on the sides towards an elongated portion or valley-like depression which is level and developed into ricefields. Because of its high elevation or location, the climate of the place is healthful, temperate and especially invigorating when one is near or within the vicinity of the waterfall or spring. The climate is of the kind which the Weather Bureau would call the Type I climate; that is, the place has two distinct seasons, a dry season from December to June, when there are light rains or no rains at all, and wet season, from June to December, when rains are abundant, heavy and frequent. The soil of the place is good. It has a luxuriant vegetation" (pp. 69-70, ROA, underscoring supplied).

The presence of the houses of twenty-three (23) tenants in a 4-hectare area at the time the government took possession of the lots herein involved, is not sufficient proof of that portion's potentiality for conversion into a residential subdivision, much less of the whole parcel of about 338 hectares. There was no evidence that the houses of the tenants were there constructed because of its residential nature. In all likelihood, the tenants were forced by necessity to construct their houses therein to be close to their respective tobacco farms. The fact that under the leasehold system of land tenure, a tenant is allotted a portion for his dwelling does not render the entire landholding no longer agricultural and thereby convert the same into a residential land.

WHEREFORE, THE JUDGMENT APPEALED FROM IS HEREBY MODIFIED AND THE PLAINTIFF-APPELLEE REPUBLIC OF THE PHILIPPINES IS HEREBY DIRECTED TO PAY THE DEFENDANTS-APPELLANTS CELESTINO C. JUAN AND ANA TANSECO THE SUM OF TWO HUNDRED THOUSAND (P200,000.00) PESOS, WITH INTEREST AT THE LEGAL RATE OF SIX PERCENT (6%) PER ANNUM FROM MAY 4, 1963. NO COSTS.

Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., concurs in the opinion of J. Makasiar.

Teehankee, J., concurs in separate opinion.

Barredo, J., reserves his votes.

Antonio, J., dissents in a separate opinion.

Aquino, J., dissents.

Concepcion, Jr. and Santos, JJ., no part.

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DISSENTING OPINION

ANTONIO, J.:

I dissent from the main opinion of my distinguished colleagues for the following reasons:

(1) Celestino Juan, in making the admission of P300,000.00 as the value of the property, was referring, not to a fair or just, but to a provisional value of his property. The sum was stated four (4) times in his "Urgent Motion for Reconsideration And/ Or to Lift Writ of Possession",^[1] but there is no mistaking that he was referring merely to a provisional value so that the Republic could obtain immediate possession of the property.

"* * * It must be considered, however, that the amount fixed as the provisional value of the lands that are being expropriated does not necessarily represent the true and correct value of the land. The value is only 'provisional' or 'tentative', to serve as the basis for the immediate occupancy of the property being expropriated by the condemnor. * * *" (Republic v. Castellvi, L-20620, Aug. 15, 1974, 58 SCRA 336, 359.)

Celestino Juan should thus be considered as having judicially admitted P300,000.00 merely as the provisional value of his property and should not be bound by such value as the true value.

Nor may Juan be bound to his proposal to the principal of the agricultural school in the sum of P190,000.00 as the selling price of his land because when he tendered the proposal he was in urgent need of money to defray expenses in connection with certain criminal cases involving his wife.^[2]

(2) Judicial or non-judicial admissions made by condemnees as to the value of their properties that are to be expropriated should not be deemed conclusive if such admitted value be unjust, because the Constitution imperatively requires the payment of "just compensation."

"Sec. 2. Private property shall not be taken for public use without just compensation." (Constitution, Article IV, Bill of Rights.)

(3) There is, moreover, the circumstance that a portion of the land had potential for conversion into a subdivision. In fact, a 4-hectare area was considered by a member of the Provincial Appraisal Committee as residential; it was occupied by tenants who built their houses thereon.^[3]

"We agree with the findings, and the conclusions, of the lower court that the lands that are the subject of expropriation in the present case, as of August 10, 1959 when the same were taken possession of by the Republic, were residential lands and were adaptable for use as residential subdivisions. Indeed, the owners of these lands have the right to their value for the use for which they would bring the most in the market at the time the same were taken from them. * * *" (Republic v. Castellvi, supra, at p. 358.)

(4) The appraisal by Provincial Agriculturist Tadina in the sum of P616,000 appears to be the most realistic and reliable. He was an experienced and competent appraiser, and he undertook the appraisal impartially, as he did so in an official capacity and without the knowledge of Celestino Juan.^[4]

(5) The mean value of the individual evaluations made by the three (3) Commissioners substantially accords with, or even surpasses, the amount recommended by Tadina, to wit:

Atty. Rogelio Balagot, Chairman and
Representative of the Court..... P1,045,876.30
Atty. Eufemio Molina, for the Plaintiff 135,000.00
Atty. Pablito Rojas, for the Defendants 1,407,856.00
P2,588,732.30

P2,588,732.30 divided by 3 = P 862,910.77

(6) Finally, it cannot be denied that the purchasing power of the peso has, in the meantime, depreciated.

"* * * This Court has also taken judicial notice of the fact that the value of the Philippine peso has considerably gone down since the year 1959. * * *." (Republic v. Castellvi, supra, at p. 363.)

The ceiling conversion rate of the peso to the dollar in 1963 when the Republic took possession of the property was P3.20 to \$1.00;^[5] the inter-bank guiding rate for January 20, 1975 was P7.0705,^[6] more than double that in 1963; on January 20, 1975, the foreign exchange rate was \$1.00 for P7.32;^[7] so that even if Celestino Juan is to be considered as having judicially admitted the price of his property in the sum of P300,000.00 (which admission is, as previously stated, qualified or non-categorical), the doubling of this sum at this time is justified.

In contrast to the foregoing, land values have considerably appreciated and continue to increase.

[1] Record on Appeal, pp. 25, 30, 31, & 32.

[2] TSN, May 7, 1964, pp. 550-552, as cited in Motion for Reconsideration, Record on Appeal, pp. 426, 478-480.

[3] TSN, p. 4, as cited in Appellants' Brief on pages 67 & 143.

[4] TSN, p. 407, cited in Record on Appeal, p. 201.

[5] Central Bank Memo, March 12, 1962.

[6] Philippines Daily Express, January 20, 1975, p. 10.

[7] Newsweek, January 20, 1975, p. 43.

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SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

I concur with the main opinion of Mr. Justice Makasiar which rejects the appraisal of defendants-appellants' expropriated property by provincial agriculturist Pio Tadina (who was not even appointed by the lower court) in the sum of P616,000.00, as urged by defendants-appellants, whereby plaintiff-appellee Republic of the Philippines would have to pay defendants-appellants (after crediting the sum of P100,000.00 deposited by plaintiff and received by defendants) the further balance of P516,000.00 with 6% interest per annum from May 4, 1963 the date when plaintiff took possession of the expropriated property and would amount to a total of well over One Million Pesos (P1,000,000.00).

I maintain that defendants-appellants' own valuation of their property given in the expropriation proceeding itself is binding on them and sets the limit of the compensation to be awarded them regardless of the patently extravagant and excessive appraisals of some of the court-appointed commissioners.

Here defendant-appellant Celestino C. Juan himself in the negotiations for the sale of his property to the State for use as a school site offered it for the price of P190,000.00 (P170,000.00 plus bank loan of P20,000.00), with a down payment of P90,000.00 and the balance of P100,000.00 payable within one year, as per his letter of January 28, 1963. He increased this valuation further to P300,000.00 in his motion for reconsideration of April 24, 1963. This last evaluation judicially given by defendants-owners is a declaration and admission binding on them,[1] unless they can show that they were laboring under an error of fact. No such error has been shown by defendants-appellants. Nor has any compelling reason been given to justify their being relieved from the binding effects of such admission.

The P616,000. -valuation urged by defendants-appellants amounts therefore to double the very valuation of P300,000.00 given by and binding on themselves, exceeding the same by P316,000.00, excluding 90% interest at 6% per annum for 16 years since 1963 that would have to be paid.

There is no justification for awarding to the owners double the amount of their own valuation of their property. On the contrary, the facts of record bear out that awarding to the owners the compensation set by themselves in the amount of P300,000.00 (P110,000.00 more than the original amount asked by them and awarded by the lower court) is a just and reasonable compensation, to wit, the property was bought in 1957 by defendants for P50,000.00 only and the value of their improvements thereon amounted to only P1,712.60 as of 1963; it is certainly doubtful and contrary to experience that the property would increase in value over 12 times to P616,000.00 (whereas the increase in 6 years to P300,000.00 as per the owners' own valuation without their having done anything to improve the property is quite an optimistic valuation); the property is about six (6) kilometers away from the poblacion of Bacnotan and when the government took possession of the same on May 4, 1963, it was not accessible at all by motor vehicle and could be reached only by hiking through rice paddies, trails and creeks; that it was not fully developed with 95 hectares of pasture land and 70 hectares of forest land and an assessed valuation of P42,120.00.

The only justification cited for granting an amount double the owners' own valuation of the property is that the value of the peso has gone down and continues to decline.

Such decline provides no valid basis or justification for doubling the fair and just price of P300,000.00 representing defendants-appellants' own judicially admitted valuation of their property (increased in four [4] months by P110,000.00 compared to their original offer to sell the same to the government for only P190,000.00, supra at page 1 hereof). It is settled law that the expropriation price to be considered is that at the beginning of the expropriation and taking of possession. That defendants should now receive the balance of P200,000.00 with legal interest when the value of the peso has declined is due to their own decision of pursuing the present appeal. (See *Dizon-Rivera vs. Dizon*, 33 SCRA 554, 568). There is no claim of extraordinary inflation such as to make applicable Article 1250 of the Civil Code providing that "the value of the currency at the time of the establishment of the obligation shall be the basis of payment." Aside from the fact that this article is applicable only to contractual obligations, neither the competent Executive and monetary authorities nor this Court have ever admitted or declared that the factual assumption of said article (extraordinary inflation) has come into existence. (*Velasco vs. Meralco*, 42 SCRA 556). The onerous and adverse consequences of such a declaration on the national economy and stability of its finance and currency and on the great majority of average and fixed wage-earners in relation to their contractual debts and obligations are too staggering to contemplate.

Finally, there is no reason to disregard the general rule enunciated in *Republic of the Philippines vs. Narciso*,[2] that "the owners' valuation of the property may not be binding on the Government or the court, but it should at least set a ceiling price for the compensation to be awarded. Moreover, the prices to be considered are those at the beginning of the expropriation not the increased values brought about by the improvements and actuations of the

Government after occupying the premises."

ACCORDINGLY, I vote for limiting the increase in compensation to be awarded to defendant appellants to the valuation set by themselves as owners in the amount of P300,000.00 with 6% interest per annum on the balance of P200,000.00 from May 4, 1963, which would bring the total expropriation value to close to Five Hundred Thousand Pesos (P500,000.00) or ten times the original price paid therefor by defendants-appellants.

[1] Rule 130, sec. 22 "Admissions of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him."

[2] 99 Phil. 1031 (1956).

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