

REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. INES V. GARCIA, DEFENDANT-APPELLEE, ALEJANDRO A. MARQUEZ, COMMISSIONER-APPELLEE.

G.R. No. L-24441. March 10, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

In an expropriation case, Alejandro A. Marquez was appointed commissioner of the court, together with Jose C. Sumangil, Jr. and J. Antonio Leviste as commissioners for the parties. The commissioners met five times or on August 13, 25 and 29 and September 7 and 14, 1964.

On October 22, 1964 they submitted their report where in they indicated that the fair market value of the land of Ines V. Garcia, with an area of 552 square meters, located at Makati, Rizal, was P77,280, the amount stated in the compromise agree-ment of the parties. The appraisal was approved by the court. (Civil Case No. 7891, Court of First Instance of Rizal, Pasig Branch I).

On November 10, 1964 Atty. Marquez filed a motion praying that his commissioner's fee be fixed at P3,864 or five percent (5%) of P77,280. The Republic of the Philippines opposed the motion. It contended that the commissioner is entitled to a compensation of five pesos per meeting and, therefore, the fee of Marquez should be fixed at twenty-five pesos.

The lower court held that the fee of five pesos fixed in eminent domain proceedings by section 13, Rule 141 of the Rules of Court is merely the minimum and that it has discretion to provide for a bigger amount of compensation. The court fixed the commissioner's fee at five hundred pesos (P500), considering that Marquez is a lawyer and that he spent time and effort during the five hearings. The court ordered that one-half of the fee is chargeable against the government and the other half against Ines V. Garcia.

The Republic of the Philippines appealed. Presumably, its appeal involves only a question of law since the facts are undisputed (*Cunanan vs. Lazatin*, 74 Phil. 719).

The issue is whether the Republic of the Philippines is liable to pay one-half of the fee of Atty. Marquez as commissioner in a condemnation proceeding. The Rules of Court provide:

"SEC. 12. Costs, by whom paid. - The fees of the commissioners shall be taxed as a part of the costs of the proceedings. All costs, except those of rival claimants litigating their claims, shall be paid by the plaintiff, unless an appeal is taken by the owner and the judgment is affirmed, in which event the costs of the appeal shall be paid by the owner." (Rule 67 on Eminent Domain).

"SEC. 13. Fees of commissioners in eminent domain proceedings. - The commissioners appointed to appraise land sought to be condemned for public uses in accordance with these rules shall each receive a compensation of five pesos per day for the time actually and necessarily employed in the performance of their duties and in making their report to the court, which fees shall be taxed as a part of the costs of the proceedings." (Rule 141).

"SEC. 16. Government exempt. - The Republic of the Philippines is exempt from paying the legal fees provided in this rule." (Rule 141).

We hold that the Republic's appeal is meritorious because section 16 of Rule 141 unmistakably provides that the State is exempt from paying legal fees. Section 1, Rule 142 of the Rules of Court complements Rule 141 by providing that "no costs shall be allowed against the Republic of the Philippines unless otherwise provided by law." There is no law requiring the Republic to pay costs in eminent domain proceedings. The commissioners' fees in expropriation cases are taxed as part of the costs and the government is not liable for costs.

The Solicitor General observes that since Ines V. Garcia did not appeal, it may be assumed that she had already paid the sum of P250 as the fee of Atty. Marquez. (He did not submit any appellee's brief).

WHEREFORE, the trial court's order is modified. The Republic of the Philippines is hereby adjudged to be exempt from the payment of the commissioner's fee of Atty. Marquez. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

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