

NATIONAL POWER CORPORATION, PETITIONER, VS. HON. DEMOSTHENES L. MAGALLANES, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 54, REGIONAL TRIAL COURT, BACOLOD CITY, AND FELISA AGRIC...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the issuances of public respondent in Civil Case No. 01-11356, to wit: (1) Order dated May 7, 2010^[1] directing petitioner National Power Corporation (NPC) or its assignee to compensate private respondent Felisa Agricultural Corporation (FAC) the sum of P7,845,000.00 in accordance with the guidelines of Republic Act No. 8974;^[2] and (2) Order dated May 11, 2011^[3] denying NPC's motion for reconsideration.

The Antecedents

On July 16, 2003, FAC filed a suit against NPC for recovery of possession with damages. FAC's Complaint^[4] alleged that after a survey was conducted on its properties sometime in 1997, FAC discovered that some of NPC's transmission towers were located within portions of FAC's lands and the transmission lines connecting these towers also traversed FAC's properties. Upon inquiry, FAC learned that NPC constructed the transmission towers sometime before 1985 without informing FAC. The complaint prayed that the trial court direct NPC to vacate the portions it occupied and surrender possession thereof to FAC.

In its Answer,^[5] NPC denied having entered the property without FAC's authority. NPC claimed that FAC's president, Jovito Sayson, gave NPC a permit to enter^[6] the properties on September 21, 1989 pursuant to a Resolution^[7] of FAC's board of directors authorizing the president to negotiate, sign and transact business with NPC.

In the course of the proceedings of the case, the parties, however, agreed to narrow down the issue into the payment of just compensation and agreed to settle the same at P400.00 per square meter. FAC executed drafts of deeds of sale over the portions of its properties occupied by NPC, which served as proposed compromise agreements. The documents were submitted to the Office of the Solicitor General for approval. However, more than two years passed since the submission of the draft deeds of sale but there had been no action on the part of NPC.

FAC became impatient of the protracted proceedings. Acting thereon, it filed with the trial court a motion^[8] asking that NPC be immediately ordered to pay FAC the sum of Seven Million Eight Hundred Forty-five Thousand Pesos (P7,845,000.00) representing the amount equivalent to 100% of the relevant Bureau of Internal Revenue (BIR)-zonal valuation of the total area of 19,635 square meters occupied by NPC.

Public respondent granted FAC's motion and issued the first assailed order, the dispositive portion of which reads, viz.:

WHEREFORE, defendant NAPOCOR or its assignee is hereby ordered to compensate plaintiff the sum of P7,845,000.00 in accordance with the guidelines of Republic Act No. 8974.

SO ORDERED.[9]

NPC moved for reconsideration of the above order but public respondent denied its motion in the second assailed order. Aggrieved, NPC lodged this petition on a lone ground that:

RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DIRECTING PETITIONER TO PAY PRIVATE RESPONDENT THE ONE HUNDRED PERCENT (100%) CURRENT BUREAU OF INTERNAL REVENUE (BIR) ZONAL VALUATION OF THE SUBJECT PROPERTIES PURSUANT TO RA 8974.

In gist, NPC contended that RA 8974 is inapplicable to this case since there was no expropriation proceeding and there was no need for a writ of possession.

This Court's Ruling

The petition is meritorious.

Public respondent's issuance of the assailed orders was premised on RA 8974, specifically Section 4 thereof, which provides, thus:

Section 4. Guidelines for Expropriation Proceedings. - Whenever it is necessary to acquire real property for the right-of-way or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

xxx xxx xxx

(c) In case the completion of a government infrastructure project is of utmost urgency and importance, and there is no existing valuation of the area concerned, the implementing agency shall immediately pay the owner of the property its proffered value taking into consideration the standards prescribed in Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a Writ of Possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned. [Emphasis supplied.]

The provision finds no application in the case at bar.

First, the requirement for the government to pay the land owner the "provisional value" of the property, which is the amount equivalent to 100% of the BIR-zonal valuation of the property, applies only when there is an expropriation proceeding. The law is obviously meant to cover expropriation proceedings intended for national government infrastructure projects.[10] RA 8974 finds no application in this case for recovery of possession.

Second, the required pre-payment of the provisional value is necessary for the government to obtain a writ of possession; and in order for it to immediately occupy the property sought to be expropriated and implement the project pending the expropriation case. Obviously, the circumstance does not obtain here since possession of the

subject portions was already with NPC; and precisely, it was such possession that FAC sought to recover.

In its Comment to the Petition,[11] FAC, cited the case of Republic v. Cancio[12] (Cancio case) to assert its counter-position that even when the government is already in possession of the property, it must still pay its provisional value in accordance with RA 8974.

At first glance, FAC correctly observed similarities between this case and the Cancio case, to wit: (1) in this case, FAC sued NPC for recovery of possession; in the Cancio case, the landowner also sought to recover possession by filing an unlawful detainer suit against the Republic; (2) in this case, NPC had long occupied the property before FAC initiated the suit; in the Cancio case, the Republic had likewise occupied the property prior to the unlawful detainer suit; and (3) in this case, NPC was ordered by the trial court to pay the provisional value of the involved portions in accordance with RA 8974; in the Cancio case, the Republic was also ordered by the RTC to pay the provisional value of the property. FAC emphasized that in the Cancio case, the Supreme Court sustained the RTC's order on the Republic to pay the land owner the provisional value of the property and invoked the ruling in asking Us to uphold the assailed orders.

Unfortunately, FAC missed out a crucial factual distinction between this case and the Cancio case, which makes the latter inapplicable to the instant controversy. In the Cancio case, the order of the RTC on the Republic to pay the provisional value to the land owner was rendered in the expropriation proceeding that the Republic initiated. The order was not an issuance in the unlawful detainer case filed by Spouses Cancio. Hence, in the Cancio case, although Spouses Cancio first lodged the ejectment suit, the government actually filed an expropriation proceeding that justified the application of RA 8974 and the order on the Republic to pay the provisional value of the involved property.

In this case, however, the questioned order directing NPC to pay the provisional value was rendered in the recovery of possession suit. Under the circumstance, the order was practically off-tangent and without basis. Public respondent, therefore, gravely abused his discretion in ordering NPC to pay FAC the provisional value of the property and in refusing to reconsider its order.

We are not oblivious to FAC's plight of having its property utilized by NPC without being paid yet its just compensation. Unfortunately, the first and fundamental duty of the Court is to apply the law. When the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. Where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[13] RA 8974 is very specific. It pertains to expropriation proceedings of national government projects. We cannot, therefore, extend its application to the present suit involving recovery of possession.

We note that after this case was submitted for decision,[14] NPC moved for the reconsideration[15] of Our denial[16] of its application for temporary restraining order/writ of preliminary injunction. Considering, however, that We are granting this petition, NPC's pending motion for reconsideration has become moot and academic.

WHEREFORE, the petition is GRANTED. Public respondent's Orders dated May 7, 2010 and May 11, 2011 are hereby NULLIFIED AND SET ASIDE.

SO ORDERED.

Ingles,[*] and Azcarraga-Jacob, JJ., concur.

[*] Acting Chairperson in lieu of J. Ramon Paul L. Hernando, per Office Order No. 14-14-GTI dated June 26, 2014.

- [1] Rollo of SP No. 06286, pp. 27-28.
- [2] Otherwise known as An Act to Facilitate the Acquisition of Right-of-Way, Site, or Location for National Government Infrastructure and For Other Purposes.
- [3] Rollo of SP No. 06286, p. 29.
- [4] Rollo of SP No. 06286, pp. 30-36.
- [5] Rollo of SP No. 06286, pp. 40-45.
- [6] Rollo of SP No. 06286, p. 46
- [7] Rollo of SP No. 06286, p. 47.
- [8] Motion for Initial Payment of the Amount Pertaining To Just Compensation, rollo of SP No. 06286, pp. 48-50.
- [9] Rollo of SP No. 06286, p. 28.
- [10] See Republic v. Gingoyon, G.R. No. 166429. December 19, 2005.
- [11] Rollo of SP No. 06286, p. 120.
- [12] G.R. No. 170147. January 30, 2009.
- [13] See Rizal Commercial Banking v. Intermediate Appellate Court, G.R. No. 74851, December 9, 1999.
- [14] Resolution dated March 12, 2014, rollo of SP No. 06286 , pp. 106-111.
- [15] See Motion for Reconsideration, rollo of SP No. 06286, pp. 127-134.
- [16] See Resolution dated March 12, 2014, rollo of SP No. 06286, pp. 106-111.

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