

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HEIRS OF MARIA ROSALES: BALTAZAR AZURA, BASILIO AZURA, AMBROSIO AZURA AND LUCILA AZURA ALFARO, AGAP...

G.R. No. L-44222. September 30, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

To construct the now Bancasi Airport, an action for Eminent Domain covering several parcels of land situated in the Barrio of Bancasi, City of Butuan was filed on December 6, 1970 by the herein petitioner, Republic of the Philippines, against the herein private respondents. The then Court of First Instance[1] of Butuan City where the case was tried rendered a decision with the following dispositive portion:

IN LIGHT OF ALL THE FOREGOING, the Court hereby renders judgment as follows:

1. Ordering the plaintiff to pay to the defendants the sums corresponding to the areas of their respective lands, computed mathematically at P7.50 per square meter: Provided, however, That those who have received their shares of the deposit shall receive only the difference: And, provided, further, that with respect to Lots Nos. 2957-A and 3018-A, the amount corresponding thereto shall be paid to the Clerk of Court, who shall keep custody thereof as well as of the balance of P19,693.38 stated in his report, for the benefit of the persons who may be entitled thereto as may be finally adjudged in Civil Case No. 453 before this Court;
2. Decreeing the plaintiff the absolute owner of the lands which are the subject of this proceeding and specifically described hereinabove; Provided, however, That the full payment thereof shall have been made; and
3. Ordering the plaintiff to pay the Costs.

SO ORDERED.[2]

Disagreeing with the amount of just compensation and that part of the decision which ordered the petitioner to pay costs, the latter filed an appeal with the Court of Appeals which affirmed the trial court's decision "with the sole modification that the plaintiff-appellant should not pay costs." [3]

Still unconvinced, the petitioner filed with us the present petition for review on certiorari on both "questions of facts and of law, in accordance with Republic Act No. 5440, in relation to Rule 45 of the Rules of Court" [4] and assigned the following errors:

THE RESPONDENT COURT ERRED IN FIXING THE AMOUNT OF P7.50, PER SQUARE METER, AS JUST COMPENSATION FOR THE SUBJECT PARCELS OF LAND SIMPLY BECAUSE OF THE PRESENCE OF SULTAN HOTEL, SUGECO, FREE METHODIST CHURCH AND THE PHILIPPINE ARMY BARRACKS IN THE LOCALITY.

THE RESPONDENT COURT ERRED IN GIVING CREDENCE TO THE RECOMMENDATION OF THE COMMISSIONERS APPOINTED BY THE LOWER COURT SIMPLY BECAUSE OF LACK OF OBJECTION THERETO ON THE PART OF THE CITY FISCAL OF BUTUAN CITY, THEREBY UTTERLY DISREGARDING THE ADMISSION OF THE PRIVATE RESPONDENTS' WITNESS, MATIAS C. DEFENSOR, ASSISTANT TRAINING DIRECTOR OF THE BUTUAN CITY MEMORIAL PARK TO THE EFFECT THAT THE PARK PREMISES WAS ACQUIRED ONLY FOR A MEASLY SUM OF p0.50 PER SQUARE METER OR P5,000.00 PER HECTARE IN THE YEAR 1971.

THE RESPONDENT COURT ERRED IN FIXING P7.50 AS JUST COMPENSATION FOR THE SUBJECT PARCELS OF LAND ALLEGEDLY BECAUSE OF THE DEVALUATION OF THE PHILIPPINE MONEY AND THE INCREASE IN THE PRICES OF COMMODITIES, THEREBY UTTERLY DISREGARDING THE PRINCIPLE IN EMINENT DOMAIN THAT THE MARKET VALUE IS DETERMINED BY SUCH VALUE OF THE SUBJECT PROPERTY OBTAINING AT THE TIME OF THE TAKING THEREOF.[5]

There is actually only one issue to be resolved here, a laborious one which demands careful scrutiny of the evidence on record, and this is the just compensation to be paid by the government.

The trial court fixed the just compensation uniformly at P7.50/sq. meter which was the lowest amount recommended by the commissioners, the other parcels being classified and valued thus:

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1. That the first 100 meter-distance away from the National Highway must be appraised and valued at P12.00 per square meter;
2. That the next succeeding 100 meter-distance must be appraised and valued at P10.00 per square meter; and
3. That the test must be appraised and valued (sic) at P7.50 per square meter.[6]

The court in adopting the recommended price said:

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x x x despite the fact that in its resolution, the Commission appraises the value for each of three classes of land, no defendant presented evidence that his land belongs to one or the other. The result is that the Court is of the opinion, and so holds, that all lands should be appraised at P7.50 per square meter. True, the owners of lands actually within the P12--and P10-class will lose some amount, but they should trace the blame to their own doorsteps. x x x[7]

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The petitioner, on the other hand, affirms that the just compensation of the expropriated lands must be valued at P1.00/square meter. The presence of the following establishments, e.g., the Sultan Hotel, Sugeco, Free Methodist Church, and the Philippine Army Barracks in the vicinity cannot be considered as material to the fixing of the price of the subject properties, much less may the presence of the mentioned establishments be a reason for the increase in the market value of the affected lands for the following reasons:

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SULTAN HOTEL -

x x x Although it is near the old Bancesi Airport, it is quite far from the terminal of the new airport. In fact, it is no longer in operation for about three (3) years after it was foreclose by Development Bank of the Philippines (DBP).

SUGECO -

The Sugeco area, a one-hectare lot located at the intersection of the National Highway and the Barrio Pinamangcunan Road was acquired by the company for its plant site in May, 1963 for P7,000.00 from the original landowner Miguel Garay. The plant started operation sometime in October, 1963. It is, however, in danger of closure due to poor business.

PHILIPPINE ARMY BARRACKS -

The Philippine Army Reservation at Bancasi, Butuan City, was acquired sometime in 1936 under Presidential Proclamation. The army barracks was established very much later. The area which used to be fifty (50) hectares (presently only about 9 hectares left), was previously the pasture land of one Ismael Evanoso.

FREE METHODIST CHURCH -

The one-hectare lot in Barrio Bencasi acquired by the Free Methodist Church from the late Luiz Azura is the nearest to the new airport. Yet, it was purchased for only P1,500.00 or P0.15 per square meter in 1955.

It is worthwhile mentioning that these four (4) establishments are all along the national highway, whereas the new Bancasi Airport is located about a hundred meters therefrom. The area it covers were formerly cogonal and underdeveloped. In fact, the Butuan City Memorial Park which is almost adjacent to the said airport and acquired much later than the filing of the expropriation case in 1970 was only bought at P5,000.00 per hectare or P0.50 per square meter. This fact was testified to by no less than the principal witness presented by the defendants, Park Training Director Matias C. Defensor. Moreover, none of the defendants declared their lands covered by the expropriation for more than P5,000.00 per hectare notwithstanding the provisions of Presidential Decree No. 76 dated December 6, 1972.

Besides, the area sought to be expropriated herein is predominantly agricultural and cogonal. This is evident from the testimony of Lino P. Oconer, Acting City Assessor of Butuan City, and Chairman of the Appraisal Committee of the same City, to wit:[8]

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After weighing the evidence on record and considering the pleadings filed by both parties, we are of the opinion that the trial court did not err in fixing the price of the affected properties at P7.50 per square meter.

(1) Even if the lands in question were predominantly agricultural and cogonal as evidenced by the tax declarations of the respondents as well as by the testimony of Lino Oconer, the then Acting City Assessor of Butuan City, the presence of certain establishments within the vicinity, the Sultan Hotel, the Sugeco, the Philippine Army Barracks, and the Free Methodist Church as earlier mentioned may be considered reason enough to improve the actual classification of the properties. It is of common knowledge that if there are several commercial establishments, a certain area as in the case at bar, there is no doubt that there will be more persons interested to purchase property adjacent to these establishments. An owner of a parcel of land in the vicinity can, therefore, command a higher price.

The allegation that the Sultan Hotel has ceased operations and that the Sugeco is in danger of closure due to poor business cannot affect the fact that the areas occupied by these establishments are still commercial in nature and the lands surrounding them have been advantageously affected.

(2) The testimonies of the different witnesses both for the petitioner and the private respondents as to the market value of the properties do not certainly jive with each other. Some of them opined that the market value of the affected-properties were even lower than P1.00 per square meter. Some, however, believed otherwise, i.e., definitely more than P1.00 per square meter but not exceeding P16.00 per square meter.

The testimony of Federico Lamigo, a real estate broker is, however, very revealing.

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x x x that in February 1970, he was the broker of Atty. Arsenio Ty who purchased one and a half hectares of land from Anita Consing Llorente at P1.10 per square meter; that the Llorentes sold that property at P1.10 per square meter because they were in financial stress; and that in his opinion, areas along the road -- 150 meters from the highway -- should demand a fair cash value of not less than P5.00 nor more than P15.00 per square meter if one is not forced to sell the land in the Bancasi area.[9]

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We choose to give great weight on Lamigo's testimony in much the same way as the trial court did for his credibility was never impugned. More importantly, he was a witness for the petitioner.

(3) The fact that the area within which the Free Methodist Church stands was purchased for the "measly" amount of P.15 per square meter is of no moment in this case. As mentioned by the petitioner herein, the land was acquired by the Free Methodist Church in 1955 or fifteen years before the present action was commenced and the taking of the subject properties. Not only did the current prices rise during that period, the subject properties likewise, even before the taking, improved their classification with the construction of the different edifices above-mentioned.

(5) The different tax declarations pegging the value per square meter of the affected land at P.25 and P.50 cannot be considered reliable. As we said in *EPZA v. Dulay*: [10]

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Various factors can come into play in the valuation of specific properties singled out for expropriation. The values given by provincial assessors are usually uniform for very wide areas covering several barrios or even an entire town with the exception of the poblacion. Individual differences are never taken into account. The value of land is based on such generalities as its possible cultivation for rice, corn, coconuts, or other crops. Very often land described as "cogonal" has been cultivated for generations. Buildings are described in terms of only two or three classes of building materials and estimates of areas are more often inaccurate than correct. Tax values can serve as guides but cannot be absolute substitutes for just compensation.

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There is no showing that the court-appointed commissioners applied illegal principles to the evidence submitted to them or that they had disregarded a clear preponderance of evidence. The amount of P7.50 per square meter as adapted by the trial court is not grossly exorbitant contrary to the claim of the petitioner.

As regards the third assignment of error, we agree with the petitioner that the market value of an expropriated property is determined at the time of the taking,[11] yet, in this case, there is no showing that the respondent court

disregarded this principle. In affirming the decision of the court a quo, the respondent court merely mentioned as an afterthought the devaluation of the peso and the rise in the prices of commodities but these were not the bases for the fixing of the amount of P7.50 as just compensation.

WHEREFORE, the decision appealed from is hereby **AFFIRMED**. The petitioner is hereby ordered to pay the amount of P7.50 per square meter to the private respondents including legal interest from the taking of the subject properties until full payment.

No costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] 15th Judicial District, Branch II, the Honorable Vicente B. Echaves, Jr., presiding Judge.

[2] Record on Appeal, 293-321.

[3] Rollo, 86, Decision of the Court of Appeals promulgated on May 11, 1976, penned by then Justice Ramon C. Fernandez with the concurrence of Justices Ricardo C. Puno and Delfin Fl. Batacan.

[4] Rollo, 41.

[5] Id., 58-59.

[6] Record on Appeal, 315.

[7] Id., 319.

[8] Rollo, 61-62.

[9] Record on Appeal, 316.

[10] G.R. No. 59603, April 29, 1987, 12-13.

[11] Commissioner of Public Highways vs. Burgos, No. L-36706, March 31, 1980, 96 SCRA 831; Municipality of Daet vs. Court of Appeals, No. L-35861, October 18, 1979, 93 SCRA 503.

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