

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS & HIGHWAYS (DPWH),
PLAINTIFF-APPELLANT, VS. MERLIE C. SANTOS AND MARIA
THERESA C. SANTOS, DEFENDANTS-A...**

Ponente: BARZA, J.

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BARZA, J.:

The Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH), appeals to this Court the Decision[1] dated December 12, 2013, rendered by the Regional Trial Court, Branch 172, Valenzuela City, fixing the price of the properties subject for appropriation at Php9,000.00 per square meter. It prays, among others, that the price be set at Php2,750.00 per square meter.

The factual antecedents:

Appellees Merlie C. Santos and Maria Theresa C. Santos are the registered owners of two parcels of land covered by TCT No. V-23960 and V-18995, containing an area of 491 square meters and 100 square meters, respectively, situated at Barangay Ugong, Valenzuela City.

The property covered by TCT No. V-18995 has a semi-concrete residential improvement thereon covering an area of 78 square meters.

Pursuant to Sec. 7 of E.O. 1035, the DPWH implemented the construction of C-5 Northern Link Road Project, Segment 8.1 from Mindanao Avenue, Quezon City to the North Luzon Expressway, Valenzuela City. Since the said construction would traverse the properties belonging to appellees, the Republic, on December 7, 2007, filed a complaint for Expropriation.

The zonal valuation of the affected properties are, as follows:

TCT (with Total Area) Affected Area (in sq.m.) Zonal Value of the Per sq.m. Affected Area Total Zonal Value

V-23960

491 sq.m.

Php2,750.00

Php1,350,250.00

V-18995

100 sq.m.

Php2,750.00

Php275,000.00

Sub Total

Php1,625,250.00

Improvement of
One-storey
residential structure
(Semi-concrete)

78 sq.m.

Php335,688.04

TOTAL

Php1,960,938.04

Appellees admitted the zonal valuation of the subject properties at Php2,750.00 per square meter but claims for a just compensation based on the prevailing market value of the other properties within the vicinity which ranges from Php10,000.00 to Php15,000.00 per square meter. According to appellees, it must be considered that the properties sought to be expropriated are situated in an industrial site which are near Mindanao Avenue and some nearby lots have been devoted to good business ventures. Appellees also objected to the zonal valuation of the residential house at Php335,688.04 and claimed that the physical condition and worth of the said improvement is almost double the amount pegged by the Republic.

On November 4, 2008[2], the court a quo issued a writ of possession and order of expropriation ordering the Republic to deposit the DBP-Head Office Manager's Check No. 0000615352 dated October 31, 2008 in the amount of Php 1,625,250.00 before the Branch Clerk of Court. The said check was released to appellees after they established their ownership over the subject properties.

On the same date, the court a quo issued another Order[3] appointing three (3) Commissioners who were tasked to ascertain and report to the court a quo the just compensation of the properties subject of expropriation.

On September 14, 2009, the Republic deposited in the Office of the Clerk of Court, the amount of Php335,688.04, representing the amount of improvement on the subject lot.

Due to the death of Maria Theresa Santos, the court a quo ordered that said deceased be substituted by her heirs, Carmelo Siccion and Carissa Siccion. In the Order[4] dated February 9, 2010, the court a quo ordered that the amount of Php335,688.04 be released to appellee Merlie Santos, who received the same on February 16, 2010.[5] Upon Order[6] of the court a quo, the Republic replaced DBP Manager's Check No. 0000615352 in the amount of Php1,625,250.00 with DBP Manager's Check 0000618824 in the name of Merlie Santos, who received the same on April 30, 2010.[7]

The constituted Board of Commissioners is composed of Osita F. De Guzman, RTC, Br. 172, Branch Clerk of Court, Atty. Cecilynne Andrade, 8 City Assessor, Valenzuela City and Engr. Romeo Selva,[9] Private Appraiser.

At the hearing before the Board of Commissioners, the Republic presented the Judicial Affidavit of its witnesses Zenaida Galvez,[10] Community Relations Chief B of the NHA and Fe Peserbe,[11] OIC of the Institutional Development Division of the National Housing Authority. Zenaida Galvez testified that one of her duties and responsibilities is to provide assistance in the relocation of Informal Settler Families (ISF). In relation to her duty,

she was requested by appellant to relocate the ISF's in Barangay Ugong and Barangay Gen. T. De Leon affected by the North Luzon Expressway (NLEX), Phase 2, C-5 Northern Link Project Segment 8.1. The NHA relocated 471 ISF's in Brgy. Ugong from November 29, 2007 to February 16, 2010. According to Zenaida Galvez, the areas occupied by the ISF's in Brgy. Ugong are underdeveloped, have no proper drainage, dirt roads and some areas have very narrow access roads and no sufficient water supply.

Witness Fe Peserbe, in her Judicial Affidavit, stated that in connection with her work as the OIC of the NHA's Development Division, she was requested by the DPWH to conduct a census and tagging operations in the areas affected by the NLEX Phase 2, C-5 Northern Link Project. The census and tagging operations yielded that there were 3,347 ISF's in both Brgy. Ugong and Brgy. Gen. T. de Leon. Fe Peserbe described the said areas as depressed, low-income and substandard residential community.

Appellees, for their part, opted not to present evidence before the Board of Commissioners.

In its Memorandum, the Republic prayed that the properties subject of appropriation be pegged at Php1,375.00 per square meter considering that these are classified as residential purposes only and were infested with ISF's which affects the value of the given properties.

Appellees, on the other hand, opposed the valuation of appellant and asked that the appointed Commissioners must come up with an average appraisal amount of Php10,000.00 to Php15,000.00 per square meter as purchase price, considering that it is the prevailing market value of the affected properties, being situated within the high intensity commercial zone of Valenzuela City and therefore within Metropolitan Manila. Appellees contended that the appraisal of the expropriated properties are not limited to the zonal valuation by the BIR but also on location, accessibility and selling prices of comparable properties.

On July 10, 2013, the Joint Commissioner's Report (Re: Just Compensation)[12] was issued whereby the amount of Php10,000.00 per square meter was recommended as the just, fair and reasonable fair market value of the properties. It was also recommended that the amount of Php471,120.00 is the just, fair and reasonable compensation of the one-storey residential structure erected on the lot since this is the amount declared for taxation purposes.

The commissioners' basis of valuation contains:

C. BASIS OF VALUATION:

1) Expropriation cases previously decided by this Honorable Court which already attained its finality, as follows:

Case No.

Name of Defendants

Location

Affected Area/sq.m.

Value/sq.m.

Date Decided

Date of Finality

15-V-08

Hobart
Realty
Dev't.
Corporation

Brgy.
Ugong,
Valenzuela
City

14,641
sq.m.

Php15,000.00

03/16/10
The
decision
rendered
by this
Court was
appealed
by the
plaintiff
with the
Court of
Appeals
and on
3/21/12, the
CA
rendered
its Decision
affirming
the
decision of
this
Honorable
Court.

01/07/13

52-V-08

Sps.
Mapalad
Serrano, et
al.

Brgy.
Gen. T. de
Leon,
Valenzuela
City

41,833

sq.m.

Php5,000.00

08/22/12

03/08/13

2) Distance from the property of the defendants to Hobart Realty Development Corporation and Sps. Mapalad Serrano, et al., as follows:

Case No.

T.C.T. No.

Distance from the property of Hobart Realty Dev't. Corporation to the property of defendants

Distance from the property of Sps. Mapalad Serrano, et al. to the property of the defendants

255-V-07

V-23960

494.03m.

1,619.52m.

V-18995

503.25m.

1,611.50m.

It is the Commissioner's recommendation that:

“After the careful consideration of the location, the land usage and the distance of the property of the defendants to that of Hobart Realty Development Corporation and Sps. Mapalad Serrano, et al., where this Honorable Court in its Decision dated March 16, 2010 and August 12, 2012 rendered the aforesaid cases pegged the fair market value at Php15,000.00 and Php5,000.00, respectively, the undersigned commissioners unanimously recommended the amount of Php 10,000.00 per square meter as the just, fair and reasonable fair market value of the property of the defendants subject of the appropriation proceedings in this case.”[13]

On December 12, 2013, the court a quo rendered its decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered fixing the just compensation of the 491 square meters lot (TCT No. V-23960) at Php 4,419,000.00 (491 sq. meters x Php 9,000.00) and as well as the 100 square meters lot (TCT No. V-18995) at Php 900,000.00 (100 sq meters x Php9,000.00) with a total amount of Php 5,319,000.00 and authorizing the payment thereof by the plaintiff to the defendants for the property condemned deducting the provisional deposit of Php 1,625,250.00 previously made and subject to the payment of all unpaid real property taxes and other relevant taxes by the defendants, if there be any.

The plaintiff is directed to pay interest at the rate of 12% per annum on the amount of deposit of Php1,625,250.00 from the time of the filing of the complaint on December 7, 2007 up to the time that the said amount was deposited in court by the plaintiff on November 4, 2008 and to pay the interest rate of 12% per annum on the unpaid balance of just compensation of Php 3,693,750.00 (Php 5,319,000.00 – Php 1,625,250.00) computed from the time of the filing of the complaint until the plaintiff fully paid the balance.

Considering that defendants failed to substantiate their claim as to the replacement costs of the one-storey residential house improvement, no additional amount for the replacement costs of the improvements erected on the lot owned by the defendants is awarded.[14]

Hence, this appeal.

The Republic raised that:

The Honorable Court erred in:

I

Pegging the just compensation award for the subject properties at Nine Thousand Pesos (Php 9,000.00) per square meter for being excessive and contrary to evidence, existing law and jurisprudence;

II

Awarding an interest rate of twelve percent (12%) per annum instead of six percent (6%) per annum, as provided by Bangko Sentral ng Pilipinas Circular No. 799.

III

Directing plaintiff-appellant to pay the amount of Three Thousand pesos (Php 3,000.00) per commissioner as commissioner's fee.[15]

The Republic avers that the manner of the court a quo in determining the just compensation is arbitrary because it took into account the alleged distance of the Hobart property to the subject properties but did not take into consideration the evidence showing the actual use, classification, size, area and actual condition of the same. The Republic argues that the properties subject of expropriation which are ordinary residential lots are very different from Hobart's property, as the latter covers a residential subdivision. Being such, there is a marked difference between the market value prices of these two different types of real estate. The properties, at the time of the taking, were also not specifically devoted to any commercial or industrial purpose and, in fact, the adjacent properties were inhabited by informal settlers. The Republic insists that the price be fixed on the basis of the BIR Zonal Valuation, which is Php 2,750.00 per square meter, as this is reflective of the fair market value of real property in a given area.

The court a quo did not err in its valuation for the just compensation of the subject properties.

Eminent domain "is the inherent power of a sovereign state to appropriate private property to particular use to promote public welfare". In the exercise of its power of eminent domain, just compensation must be given to the property owner to satisfy the requirements of Sec. 9, Art. III of the Constitution.[16]

The determination of just compensation is a function addressed by the courts of justice and may not be usurped by any other branch or official of the government. However, Section 5 of Republic Act No. 8974 lists the relevant standards that are to be considered in determining just compensation.[17]

Section 5 of R.A. 8974 enumerates the standards for assessing the value of expropriated land taken for national government infrastructure projects, to wit:

SECTION 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. — In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

(a)

The classification and use for which the property is suited;

(b)

The developmental costs for improving the land;

(c)

The value declared by the owners;

(d)

The current selling price of similar lands in the vicinity;

(e)

The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of the improvements thereon;

(f)

The size, shape or location, tax declaration and zonal valuation of the land;

(g)

The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

(h)

Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

We find that the court a quo judiciously determined the fair market value of the subject properties in the amount of Php9,000.00. The Commissioners' recommended valuation of the subject properties was supported by documentary evidence as this was based on the recommended fair market value in the expropriation cases decided by the court a quo in *Hobart Realty and Sps. Mapalad Serrano*. Note that the properties subject of expropriation have the distance of only 494.03m and 503.25m from the Hobart Realty, and 1,619.52m and 1,611.50m from the Spouses Serrano property.

A commissioners' report of land prices is considered as evidence in the determination of the amount of just compensation due the land owner in expropriation cases. The recommended amount of just compensation contained in the commissioners' report of land prices, in turn, is based on various factors such as the fair market value of the property and the value of like properties. Thus, it becomes imperative that the commissioners' report of land prices be supported by pertinent documents, which impelled the commissioners to arrive at the recommended amount for the condemned properties, to aid the court in its determination of the amount of just compensation.[18] The Commissioner's Report contains attachments[19] which were made as the basis of their recommended valuation.

The decision of the court a quo in considering the just compensation of the property is relevant, thus:

“Considering the recommendation of the Board of Commissioner's dated July 10, 2013 in the amount of Php 10,000.00; the BIR zonal valuation of Php 2,750 per square meter which is certainly higher than the other zonal valuation of other lots subjected to plaintiff's expropriation and the value declared by the defendants in the amount of Php 15,000.00 per square meter in their Memorandum; this court's observation on the location of the two properties which is 494.03 and 503.25 meters away from Hobart Realty Development Corporation respectively, a commercial lot, the value of the property was pegged by this court at Php 15,000.00/sq. meter in

a decision dated March 16, 2010 in Civil Case No. 15-V-08 which decision was affirmed by the Court of Appeals and Supreme Court, the classification of the lot, which is for residential usage, and the selling price of the property within the vicinity, the Court rules that the just compensation for the defendants' property sought to be taken in this case is fixed at Php 9,000.00 per square meter.”[20]

The court a quo correctly relied in the valuations made in the cases of Hobart Realty and Sps. Mapalad Serrano, which properties were pegged at Php15,000.00 and Php5,000.00 per square meter, respectively. Considering the distance of the subject properties to that of Sps. Mapalad Serrano and Hobart Realty, which is a commercial area, the court a quo's valuation of Php 9,000.00 per square meter is acceptable.

The Republic, despite claiming that the area was infested with ISF's, was not able to present evidence to prove that the subject properties can be found where the ISF's are located. At most, the testimonies of Zenaida Galvez and Fe Peserbe were able to prove only that tagging and relocation were conducted in the areas of Barangays Ugong and Gen. T. de Leon.

This Court will not agree with the contention of the Republic that just compensation for the subject properties should be the zonal valuation in the amount of Php2,750.00 per square meter. The Supreme Court has held that tax declarations and BIR zonal valuation are not the only proof of the fair value of properties. Zonal valuation is just one of the indices of the fair market value of real estate. By itself, this index cannot be the sole basis of "just compensation" in expropriation cases.[21]

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word "compensation" and to convey thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample. Such "just"-ness of the compensation can only be attained by using reliable and actual data as bases in fixing the value of the condemned property.[22]

With respect to the issue on interest, the court a quo may impose the same on the just compensation award as may be justified by the circumstances of the case and in accordance with prevailing jurisprudence. The Supreme Court has previously allowed the grant of legal interest in expropriation cases where there was delay in the payment of just compensation, deeming the same to be an effective forbearance on the part of the State. To clarify, this incremental interest is not granted on the computed just compensation; rather, it is a penalty imposed for damages incurred by the landowner due to the delay in its payment.[23] Thus, legal interest shall be pegged at the rate of 12% p.a. from the time of taking until June 30, 2013. Thereafter, or beginning July 1, 2013, until fully paid, just compensation shall earn interest at the new legal rate of 6% p.a., conformably with the modification on the rules respecting interest rates introduced by Bangko Sentral ng Pilipinas, Monetary Board Circular No. 799, Series of 2013.[24]

Anent the Republic's allegation that the assailed decision ordered the payment of Php3,000.00 per commissioner, this Court cannot resolve the same. In the course of Our reading, nowhere in said decision was there an order against the Republic to pay commissioner's fee.

WHEREFORE, the appeal is PARTLY GRANTED.

We AFFIRM the decision of the court a quo fixing just compensation of the 491 square meters lot (TCT No. V-23960) at Php4,419,000.00 (491 sq. meters x Php9,000.00), as well as the 100 square meters lot (TCT No. V-18995) at Php900,000.00 (100 sq. meters x Php9,000.00), with a total amount of Php5,319,000.00 and authorizing the payment thereof by the appellant to the appellees for the property condemned deducting the provisional deposit of Php1,625,250.00 previously made and subject to the payment of all unpaid real property taxes and other relevant taxes by the appellees, if there be any.

With the MODIFICATION that appellant is directed to pay interest at the rate 12% per annum on the amount of deposit of Php1,625,250.00 from the time of the filing of the complaint on December 7, 2007 up to the time that the said amount was deposited in court by the appellant on November 4, 2008 and to pay the interest rate of 12% per annum on the unpaid balance of just compensation of Php3,693,750.00 (Php5,319,000.00 – Php1,625,250.00), computed from the time of the filing of the complaint until June 30, 2013. Beginning July 1, 2013, until fully paid, just compensation shall earn interest at the new level rate of 6% per annum.

SO ORDERED.

Carandang, R. D., Chairperson and Reyes-Carpio, A., JJ., concur.

[1] pp. 12-16, rollo.

[2] p. 101, record.

[3] p. 102, record.

[4] p. 170, record.

[5] p. 172, record.

[6] March 9, 2010, p. 174, record.

[7] p. 178, record.

[8] Replacing Atty. Henry Ard Binwag, Order, January 28, 2011, p. 207, record.

[9] Replacing Engr. Pilar Morales, Order, December 8, 2011, p. 239, record.

[10] Exhibit "I", pp. 388-390, folio of exhibits.

[11] Exhibit "K", pp. 395-397, folio of exhibits.

[12] pp. 320-322, record.

[13] p. 322, record.

[14] p. 16, rollo.

[15] p. 35, rollo.

[16] *Napocor v. Co*, G.R. No. 166973, February 10, 2009.

[17] *Republic vs. Far East Enterprises, Inc.*, G.R. No. 176487, August 25, 2009.

[18] *National Power Corporation vs. YCLA Sugar Development Corp.*, G.R. No. 193936, December 11, 2013.

[19] Parcellary Plan, TCT No. 23960, TCT No. 18995, Tax Declaration No. C-025-03016, Tax Declaration No. C-025-012229, Decision dated 3/16/10 in the case of Hobart Realty Dev't. Corp. decision dated 8/22/12 in the case of Sps. Mapalad Serrano, et al., pp. 324-366, record.

[20] pp. 15-16, rollo.

[21] *Republic vs. Spouses Tan*, G.R. No. 191448, November 16, 2011.

[22] *Republic v. Asia Pacific Integrated Steel Corp.*, G.R. No. 192100, March 12, 2014.

[23] LBP vs. Lajon, G.R. Nos. 184982 & 185048, August 20, 2014.

[24] Ibid, citing Nasar v. Gallery Frames, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 454-456.

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