

**NATIONAL POWER CORPORATION, PLAINTIFF-APPELLANT, VS.
SPOUSES PRIMITIVA GENER & MARCOS GUMASING, SPOUSES
ESPIRIDION & LOURDES POLICARPIO, SPOUSES ALFREDO
& GERTUDES MATEO, HEIRS ...**

Ponente: CRUZ, R.A., J.

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CRUZ, R.A., J.:

THE CASE

This is an appeal under Rule 41 of the Rules of Court assailing the Partial Judgment dated June 24, 2009[1] of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76 in Civil Case No. 1090-M-1997. The dispositive portion of the Partial Judgment reads, as follows:

“ xxx xxx xxx

IN VIEW OF THE FOREGOING, judgment is hereby rendered as follows:

1. Ordering the expropriation of Lot (sic) 1823 with a combined total area of 92,524 square meters, described and covered by TCT No. T-129607[2] in favor of plaintiff National Grid Corporation of the Philippines (sic) for public use or purpose it was intended, free from all liens and encumbrances whatsoever;
2. Ordering the plaintiff to pay the rightful and lawful owner of Lot (sic) 1823 the amount of P4,000.00 per square meter as the just compensation for the taking with legal interest thereon at 6% per annum commencing on 7 September 2007 until finality of this partial judgment, deducting therefrom plaintiff's provisional deposit in the amount of P1,285,177.70 with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68;
3. Pending the determination of the real owner of the subject property, plaintiff is directed to deposit the amount abovementioned under custodia legis, thru the Land Bank of the Philippines, Malolos City, Bulacan Branch.

Plaintiff is likewise directed to submit in court the bank passbook as proof of deposit of the aforesaid just compensation;

4. Ordering the parties to pay each commissioner the amount of P800.00 per hearing as commissioners' fee;

Let this partial judgment be recorded in the Office of the Register of Deeds of Tabang, Guiguinto, Bulacan.

Furnish copies of this Order (sic) to plaintiff NGCP (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, the commissioners, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan

SO ORDERED.

xxx xxx xxx “

THE ANTECEDENTS

To construct its Northwestern Luzon Project (San Jose-San Manuel 500 KV T/L Project), the National Power Corporation (NAPOCOR, for short), filed a Complaint for Eminent Domain on December 17, 1999 before the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76 against Spouses Primitiva Gener & Marcos Gumasing (Spouses Gumasing), Spouses Espiridion & Lourdes Policarpio (Spouses Policarpio), Spouses Alfredo & Gertudes Mateo (Spouses Mateo), Heirs of Lucia Nieto, represented by Perfecto Leang and Dolores Leang-Herrera (Heirs of Nieto), Generoso Avanceña, Spouses Elena & Bienvenido Buenaventura, Spouses Ruben & Dolores Cabrera, Sr., Spouses Perfecto & Erlinda Avanceña, Spouses Antonio & Zenaida Avanceña, Leonita Avanceña, represented by Generoso Avanceña (Avanceña, et al.), Spouses Andres & Crisanta Avena (Spouses Avena), Lourdes Pascual (Pascual) and Spouses Rogelio Mendoza & Evelyn Tomas, Spouses Isagani Mendoza & Ursula Salino, Spouses Avelino Cruz & Leonara Mendoza, Soledad Mendoza, Adela Mendoza represented By Rogelio and Adela Mendoza (Mendoza, et al.), as defendants, docketed as Civil Case No. 1090-M-97.

In its Complaint,[3] plaintiff alleged the following material facts:

“ xxx xxx xxx

4. Defendants are the registered owners/claimants of parcels of land situated at Brgy. Tigbe, Municipality of Norzagaray, Bgy. (sic) Sapang Putik, Municipality of San Rafael and Bgy. (sic) Dulong Bayan, Municipality of San Jose del Monte, Bgy. (sic) Salangan, Municipality of San Miguel, all in the province of Bulacan particularly described below together with the affected areas sought to be expropriated and the corresponding assessed values to wit:

Owner/Claimant

Lot/ Blk.

No.

Tax. Dec.

No.

Title No.

Total Area

Area affected

in sq. m.

Assessed Value

Classification of

Land

- 1.Sps. Primitiva Gener & Marcos Gumasing 2348-B 05966 10,770 9,309.73 209,468.92 Residential
- 2.Sps. Espiridion & Lourdes Policarpio 480 96-21011-01608 T-6464 (M) 5,854 1012.08[4] 2,210.36 Riceland
- 3.Sps. Alfredo & Gertudes Mateo 2404-M-3 05964 T-20539[5] 8,353 6,136.09 138,062 (sic) Residential
4. Heirs of Lucia Nieto 784 93-21001-01606 17,120 8,944.61 44,137.89 Residential/Agricultural
5. Generoso Avanceña, et al. 831 93-21011-03038 T-24637P (M) 29,499 14,471.50 792,965.73 Residential/Agricultural
6. Sps. Andres & Crisanta Avena 801-B 93-21011-00905 T-120192 (M) 19,818 9,307.50 21,499.11

Residential/Agricultural

7. Lourdes S. Pascual 1823 96-22035-00452 T-98721 92,524 16,500.00 70,927.67 Residential/Agricultural

8. Rogelio Mendoza, et al. 153 93-031-00546 T-33291 34,156 5,048.00 5,906.14 Riceland

70,729.50 P1,285,177.70

5. To enable the plaintiff to construct and maintain its Northwestern Luzon Project (San Jose-San Manuel 500 KV T/L Project), a project for public purpose, it is both necessary and urgent for plaintiff to acquire an easement of right of way over the portion of the above parcels of land consisting of a total area of 70,729.50 sq.m., more or less, xxx xxx

6. The above-described parcels of land sought to be expropriated have not been applied to nor (sic) expropriated for any public use and are selected by plaintiff in a manner compatible with the greatest public good and the least private injury;

7. Plaintiff has negotiated with defendants for the acquisition of an easement of right-of-way over the portion of the said parcels of land for the public use as above-stated at a price prescribed by law, but failed to reach an agreement with them notwithstanding the negotiations between the parties;

8. Pursuant to Section 2 of Rule 67 of the New Rules of Civil Procedure, upon the filing in the proper court of the complaint in eminent domain proceedings or any time thereafter, and after due notice to the defendants, plaintiff shall have the right to take or enter upon the possession of the real properties involved if it deposits with the authorized government depository an amount equivalent to the assessed value of the properties for purposes of taxation to be held by said bank subject to the orders and final disposition of the court;

9. Plaintiff is willing to deposit the total amount of P1,285,177.70 representing the assessed value for taxation purposes of the affected portions of the subject parcels of land as stated in paragraphs 4 and 5 hereof and which (sic) for purposes of the issuance of the corresponding writ of possession, is required to be deposited by plaintiff with the authorized government depository, subject to the orders and final disposition of the Court in accordance with Section 2, Rule 67 of the New Rules of Civil Procedure and in line with the Decision of the Supreme Court in the case of National Power Corporation vs. (sic) Hon. Enrique T. Jocson, et al., G.R. Nos. 94193-99, February 25, 1992.

xxx xxx xxx “

Defendants Spouses Gumasing, Spouses Policarpio, Heirs of Lucia Nieto, Avanceña, et al., Spouses Avena and Mendoza, et al. filed their respective Answers.[6]

On March 17, 1998, plaintiff filed an Urgent Ex-parte Motion for the Issuance of a Writ of Possession.[7] In its Order dated May 13, 1998,[8] the RTC ordered the sheriff to place “the plaintiff in possession of the properties covered by TCT Nos. T-6464 (M), T-20539 (M), T-24637P (M), T-120192 (M) and T-33291; Tax Declaration Nos. 05966 and 93-21001-01606.” Subsequently, a Writ of Possession was issued on May 15, 1998.[9]

On July 27, 1998, the RTC issued an Order,[10] which directed the sheriff to place the plaintiff in possession of the property covered by TCT No. T-98721 with Tax Declaration No. 96-22035-00452, and a Writ of Possession against Defendant Pascual.[11]

Thereafter, plaintiff filed a Motion for Issuance of Order of Condemnation dated April 4, 2006[12] and alleged that, it had entered into compromise agreements with Defendants Spouses Mateo,[13] Spouses Gumasing,[14] Spouses Avena,[15] and Avanceña, et al.[16] and Heirs of Teofila Avanceña which were approved by the RTC in the Partial Judgments dated October 21, 1998,[17] May 13, 1999,[18] and July 31, 2000,[19] and Partial Decision dated April 16, 2001,[20] respectively, and the same have attained finality; meanwhile the complaint for

expropriation against the other defendants, namely, Heirs of Nieto, Spouses Policarpio, Pascual and Mendoza, et al., has not yet passed the first stage, hence, prays for the issuance of an order of condemnation.

Defendant Pascual filed a Comment[21] alleging that, she concedes the public purpose for which the complaint was filed; plaintiff is liable for damages; the reported amount, which was based on the calculated value of P1,800.00, Philippine Currency, per square meter, paid to her co-defendants is way below the market value; she asserts that her property is a prime lot and lies along the highway which must be taken into account in the determination of the just compensation.

On December 9, 2006, Defendant Pascual filed an Ex-Parte Motion[22] stating that, by way of compromise, she is willing to accept the price of P3,000.00, Philippine Currency, per square meter as just compensation plus legal interest of 6% per annum; a Notice of Lis Pendens was filed in view of the pendency of a Petition for Annulment of Sale at Public Auction involving TCT No. T-98721 of the Registry of Deeds of Bulacan, docketed as Civil Case No. Q-98-33124, before the Regional Trial Court (RTC) of Quezon City, Branch 104.

On January 11, 2007, Defendant Pascual filed an Urgent Motion for Clarification of No. 5 of the Ex-Parte Motion dated December 9, 2006,[23] reiterating that she has no opposition to the expropriation proceedings filed by the plaintiff and is willing to enter into a compromise agreement but prays for the segregation of the area sought to be expropriated or the area affected, i.e. 16,500 sq. m., from the total area of Lot No. 1823, i.e. 92,524 sq.m. and a new certificate of title be issued in her name for the remaining area.

On September 7, 2007, the RTC issued an Order[24] granting plaintiff's motion. The fallo of the order reads:

“ xxx xxx xxx

IN VIEW OF THE FOREGOING, an order of condemnation is hereby issued declaring that the plaintiff NAPOCOR, now TRANSCO (sic), has a lawful right to take the subject parcels of land, together with existing improvements thereon, more specifically described as follows:

(a) 1,012.75 square meters of Lot (sic) 480 of Sps. Espiridion and Lourdes Policarpio, containing an area of 5,854 square meters, covered by TCT No. T-6464 (M);

(b) 8,944.61 square meters of Lot (sic) 784 of the Heirs of Lucia Nieto, containing an area of 17,120 meters, covered by Tax Declaration No. 93-21001-01606;

(c) 16,500 square meters of Lot (sic) 1823 of Lourdes S. Pascual, containing an area of 92,524 square meters, covered by TCT No. T-98721; and

(d) 5,048 square meters of Lot (sic) 153 of Sps. Rogelio Mendoza and Evelyn Tomas, containing an area of 92,524 (sic) square meters, covered by TCT No. T-33291

for the public use or purpose as stated in the complaint, upon payment of just compensation. Accordingly, in order to ascertain the just compensation, the parties are hereby directed to submit within fifteen (15) days from notice hereof, a list of independent appraisers from which the Court will select three (3) to be appointed as Commissioners pursuant to Section 5, Rule 67, Rules of Court.

Anent the issue on rightful ownership of Lot (sic) 784, which defendant Perfecto Leang claims to be the sole true and legal owner of the property to the exclusion of the Heirs of Lucia Nieto, and Lot (sic) 1823, originally registered in the name of Lourdes S. Pascual but subsequently transferred in the name of Banco Filipino Savings and Mortgage Bank, the same is evidentiary in nature that may be well threshed out during the subsequent proceedings in this case.

In the meantime, the Heirs of Lucia Nieto and Banco Filipino Savings and Mortgage Bank are hereby directed to submit (sic) comment/opposition, within ten (10) days from receipt hereof, relative to their right, claim

and/or interest over Lot (sic) 784, containing an area of 17,120 square meters and covered by Tax Declaration No. 93-21001-01606; and Lot (sic) 1823, containing an area of 92,524 square meters and covered by TCT No. T-98721.

Send copies of this Order to all the parties concerned namely, plaintiff TRANSCO (sic), Banco Filipino Savings and Mortgage Bank, defendants Heirs of Lucia Nieto, Sps. Espiridion and Lourdes Policarpio, Lourdes S. Pascual and Sps. Rogelio Mendoza and Evelyn Tomas, and their respective counsels.

SO ORDERED.

xxx xxx xxx “

In compliance with the Order dated September 7, 2007, plaintiff nominated the following: (1) Provincial Assessor, Province of Bulacan, (2) Appraiser of Land Bank of the Philippines, Malolos City, Bulacan, and (3) the Branch Clerk of Court.[25] On the other hand, Defendant Lourdes Pascual submitted the Affidavits of Rosalinda Santos,[26] a resident of Salangan, San Miguel Bulacan, and Emie Pinaroc,[27] an authorized real estate agent.

In its Order dated March 6, 2008,[28] the RTC appointed the following as commissioners, namely, Atty. Rowena H. Rama-Chavez,[29] the Branch Clerk of Court as the chairperson and Emie Pinaroc,[30] Jose Ramil Manio[31] and Manolo De Guzman,[32] appraisers of the Land Bank of the Philippines, Malolos, Bulacan, to serve as members-commissioners thereof.

After conducting several ocular inspections,[33] the commissioners submitted their Report on Just Compensation dated January 28, 2009[34] recommending that the valuation of Lot No. 1823, classified as agricultural, in 1997 is P100.00, Philippine Currency, per square meter, commencing from the time of filing of the complaint. They add that Defendant Pascual should be paid a legal interest at the rate of six percent (6%) per annum to be computed from 1997 until the same shall have been fully paid.

Plaintiff filed a Manifestation[35] offering no objection to the Report on Just Compensation dated January 28, 2009. On the other hand, Defendant Pascual filed a Manifestation[36] in Support of the Position Paper dated April 17, 2009[37] opposing the recommendations of the commissioners. She argued that the valuation in the amount of P100.00, Philippine Currency, made by Commissioners Jose Ramil Manio and Manolo De Guzman is too low, unreasonable and manifestly inequitable. The amount of P6,000.00, Philippine Currency, is the most fair, just and reasonable valuation of the subject property. She also invokes the case of Reyes v. National Housing Authority,[38] where it was ruled that twelve percent (12%) interest per annum shall be imposed on the final compensation until paid.

On June 24, 2009, the RTC issued a Partial Judgment[39] declaring that that the valuation of the subject property should not be computed from the date of filing the complaint in 1997 but when the Order of Expropriation was issued, i.e. on September 7, 2007, by way of exception to the general rule as held in the case Heirs of Mateo Pidacan, et al. v. Air Transportation Office (ATO).[40] It ruled that the recommendations of the commissioners were only advisory and not conclusive upon it. According to the RTC, after taking into consideration the prevailing selling prices of other nearby lots in Barangay Salangan, San Miguel, Bulacan, its high economic value for residential or commercial use and its accessibility to known landmarks such as St. Paul University, Meralco Sub-station, Iglesia Ni Cristo Chapel, Rosemoor Village and San Miguel District Hospital, just compensation for the Lot No. 1823 is in the amount of P4,000.00, Philippine Currency, per square meter. Moreover, since the taking, the whole portion of Lot No. 1823 was rendered unusable as the tower and high voltage transmission lines built thereon continuously pose great threat and danger to the lives of the people.

Thus, it decreed that:

“ xxx xxx xxx IN VIEW OF THE FOREGOING, judgment is hereby rendered as follows:

1. Ordering the expropriation of Lot (sic) 1823 with a combined total area of 92,524 square meters, described and covered by TCT No. T-129607[41] in favor of plaintiff National Grid Corporation of the Philippines (sic) for public use or purpose it was intended, free from all liens and encumbrances whatsoever;
2. Ordering the plaintiff to pay the rightful and lawful owner of Lot (sic) 1823 the amount of P4,000.00 per square meter as the just compensation for the taking with legal interest thereon at 6% per annum commencing on 7 September 2007 until finality of this partial judgment, deducting therefrom plaintiff's provisional deposit in the amount of P1,285,177.70 with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68;
3. Pending the determination of the real owner of the subject property, plaintiff is directed to deposit the amount abovementioned under custodia legis, thru the Land Bank of the Philippines, Malolos City, Bulacan Branch. Plaintiff is likewise directed to submit in court the bank passbook as proof of deposit of the aforesaid just compensation;
4. Ordering the parties to pay each commissioner the amount of P800.00 per hearing as commissioners' fee;

Let this partial judgment be recorded in the Office of the Register of Deeds of Tabang, Guiguinto, Bulacan.

Furnish copies of this Order (sic) to plaintiff NGCP (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, the commissioners, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan

SO ORDERED.

xxx xxx xxx“

Unsatisfied with the partial judgment, plaintiff filed a Motion for Reconsideration[42] arguing that the case of Heirs of Mateo Pidacan et al., v. Air Transportation is inapplicable. Moreover, the valuation of the property subject of expropriation should be computed from the date of taking or filing of the complaint, whichever is earlier. Defendant Pascual also filed a Motion to Amend Partial Judgment[43] and Supplemental Motion to Amend Partial Judgment.[44]

The RTC, in its Order dated November 9, 2009,[45] denied the motions filed by the plaintiff and Defendant Lourdes Pascual. The fallo of the Order reads, as follows:

“ xxx xxx xxx WHEREFORE, premises considered, plaintiff's motion for reconsideration and defendant Lourdes Pascual's motion to amend partial judgment and supplemental motion to amend partial judgment with leave of court are hereby DENIED for lack of merit.

Furnish copies of this Order to plaintiff National Transmission Corporation (sic), Banco Filipino Savings and Mortgage Bank, defendant Lourdes S. Pascual and their respective counsels, as well as the Registry of Deeds of Tabang, Guiguinto, Bulacan.

SO ORDERED. xxx xxx xxx “

Hence, this appeal.

THE ASSIGNED ERRORS

Plaintiff, now appellant before Us, ascribes the following errors that:

I. THE TRIAL COURT ERRED IN DECLARING THAT THE VALUATION OF THE PROPERTY

SUBJECT OF EXPROPRIATION PROCEEDINGS SHOULD BE COMPUTED FROM THE DATE WHEN THE ORDER OF EXPROPRIATION WAS ISSUED ON SEPTEMBER 7, 2007;

II. THE TRIAL COURT ERRED IN FIXING THE AMOUNT OF JUST COMPENSATION AT P4,000.00, PHILIPPINE CURRENCY, PER SQUARE METER.

Plaintiff-appellant, in its Brief,[46] argues that the payment of just compensation is to be determined from the date of the taking of the property or filing of the complaint, whichever came first. The case of *Heirs of Mateo Pidacan, et al. v. Air Transportation Office (ATO)*,[47] relied upon by the RTC, is an exception to the general rule and inapplicable to the present case. Unlike in the *Pidacan* case, it has instituted a complaint for expropriation against defendant-appellee as early as December 17, 1997 and the subject property, particularly Lot No. 1823, was placed in its possession by virtue of a Writ of Possession on July 27, 1998, hence, the RTC grossly erred in ruling that just compensation shall be computed from the time of issuance of the Order of Expropriation on September 7, 2007.

They add that the amount of P4,000.00, Philippine Currency, per square meter fixed by the RTC as just compensation is speculative and lacks factual basis. A panel of commissioners have been appointed and after conducting ocular inspection, they submitted a report and recommended that the valuation of the agricultural land in the year 1997 is P100.00, Philippine Currency, per square meter. It was therefore erroneous for the RTC to disregard the recommendations of the commissioners.

Defendant-Appellee Estate of Lourdes Pascual,[48] in its Brief,[49] maintains that the RTC was correct in applying the *Pidacan* case because the expropriation proceedings was stretched for an unreasonable period of time without fault on its part. The principles of justice and fairness dictate that the computation of just compensation shall not be determined from the date of filing the complaint, i.e. 1997, but the date of condemnation. Also, the amount of P4,000.00, Philippine Currency, per square meter fixed by the RTC as the just compensation is adequately supported by documentary and testimonial evidence, and therefore, must be upheld.

Defendant-Appellee Banco Filipino Savings and Mortgage Bank also prays for the dismissal of the appeal and counters that the RTC correctly ruled that the valuation of the property subject of expropriation proceedings should be computed from the issuance of the Order of Expropriation on September 7, 2007 because there is an exponential increase in its value. Moreover, the recommendations of the commissioners are merely advisory and not conclusive upon the court, therefore, the RTC may totally disregard the findings of the commissioners and substitute its own findings.[50]

OUR RULING

The RTC erred in ruling that the valuation of the property subject of expropriation proceedings should be computed from issuance of the Order of Expropriation dated September 7, 2007

It is plaintiff-appellant's position that the RTC erred in applying the case of *Heirs of Mateo Pidacan, et al. v. Air Transportation Office (ATO)*[51] and ruling that the valuation of the subject property should be computed from the date when the Order of Expropriation was issued on September 7, 2007 because, as a rule, the determination

of just compensation is from the date of taking or filing of the complaint, whichever came first. The complaint for expropriation against Defendant-Appellee Estate of Lourdes Pascual was filed on December 17, 1997, while it took possession of the subject property on July 27, 1998, therefore, the computation should reckon from the filing of the complaint.

Eminent domain is the inherent power of a sovereign state to appropriate private property for particular use to promote public welfare.[52] Expropriation proceedings have two stages. The first phase pertains to the determination that the property is to be acquired for a public purpose. The second phase consists of the determination of just compensation.[53] As borne by the records, the RTC's Order of Expropriation dated September 7, 2007 was not appealed by defendants-appellees, hence, the same is no longer subject to review. We are now left with the issue on the determination of the just compensation.

The relevant procedure governing expropriation is set forth in Rule 67 of the Rules of Court. And, Section 4 thereof provides:

“ “ xxx xxx xxx SEC. 4. Order of expropriation. -If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

A final order sustaining the right to expropriate the property may be appealed by any party aggrieved thereby. Such appeal, however, shall not prevent the court from determining the just compensation to be paid. (Emphasis supplied)

After a rendition of such an order, the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court deems just and equitable.

xxx xxx xxx “

The law is explicit that the just compensation shall be determined as of the date of the taking of the property or the filing of the complaint, whichever came first. In a string of cases,[54] it has been consistently held that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint.

We agree with plaintiff-appellant that the case of Heirs of Mateo Pidacan, et al. v. Air Transportation Office (ATO),[55] relied upon by the RTC, is inapplicable. There, ATO has been using the petitioners' property as airport since 1948 without having instituting the proper expropriation proceedings. It was ruled that to peg the value of the property at the time of taking in 1948 despite the exponential increase in its value considering the lapse of over fifty (50) years would be iniquitous. Justice and fairness dictates that the appropriate reckoning point for the valuation of petitioner's property is when the trial court made its order of expropriation in 2001.

While in this case, unlike in Pidacan, the filing of the complaint for expropriation preceded or came ahead of the taking of the property. The computation of the just compensation should therefore be based on the full market value of subject property reckoned from the time of the filing complaint, i.e. on December 17, 1997, as provided in Section 4, Rule 67 of the Rules of Court.

The case of National Power Corporation v. Co,[56] which is factually similar to the present case, is apt. There, NAPOCOR filed a complaint for expropriation of three (3) lots at Barangay Cabalantian, Bacolor, Pampanga with

a total area of 575 sq.m. for the construction of transmission lines for its Lahar Affected Transmission Line Project (Lahar Project) on June 27, 2001. On March 25, 2002, NAPOCOR obtained a Writ of Possession and on April 15, 2002, it took possession of the property. It was held that the presence of transmission lines restricts the landowner's use of the property. NAPOCOR is thus liable to pay the full market value of the property and the reckoning date for the determination of the amount of just compensation is the date when NAPOCOR filed its expropriation complaint, viz:

“ xxx xxx xxx In *National Power Corporation v. Manubay Agro-Industrial Development Corporation*, we held that the taking of property was purely an easement of a right of way, but we nevertheless ruled that the full market value should be paid instead of an easement fee. This Court is mindful of the fact that the construction of the transmission lines will definitely have limitations and will indefinitely deprive the owners of the land of their normal use.

The presence of transmission lines undoubtedly restricts respondent's use of his property. Petitioner is thus liable to pay respondent the full market value of the property.

The second aspect of the compensation issue relates to the reckoning date for the determination of just compensation. Petitioner contends that the computation should be made as of 27 June 2001, the date when it filed the expropriation complaint, as provided in Rule 67. We agree.

Rule 67 clearly provides that the value of just compensation shall "be determined as of the date of the taking of the property or the filing of the complaint, whichever came first." In *B.H. Berkenkotter & Co. v. Court of Appeals*, we held that:

It is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint.

Typically, the time of taking is contemporaneous with the time the petition is filed. The general rule is what is provided for by Rule 67. There are exceptions--grave injustice to the property owner, the taking did not have color of legal authority, the taking of the property was not initially for expropriation and the owner will be given undue increment advantages because of the expropriation. However, none of these exceptions are present in the instant case.

Moreover, respondent's reliance on the ruling in *City of Cebu v. Spouses Dedamo*, is misplaced since the applicable law therein was the Local Government Code which explicitly provides that the value of just compensation shall be computed at the time of taking.

Based on the foregoing, the reckoning date for the determination of the amount of just compensation is 27 June 2001, the date when petitioner filed its expropriation complaint. (Underscoring Ours).

xxx xxx xxx “

The RTC's valuation of
P4,000.00, Philippine
Currency, per square
meter is not supported
by evidence

Plaintiff-appellant also argues that the RTC's valuation of just compensation is baseless and speculative because it disregarded the commissioners' Report dated January 28, 2009 and made its own findings.

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. To compensate is to render something which is equal in value to that taken or received. The word "just" is used to intensify the meaning of the word "compensation"; to convey the idea that the equivalent to be rendered for the property taken shall be real, substantial, full, ample.[57] In eminent domain or expropriation proceedings, the general rule is that the just compensation which the owner of condemned property is entitled to is the market value. Market value is "that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as a price to be given and received therefor." [58]

Here, the RTC, in fixing the valuation of the affected property, i.e. Lot No. 1823, at P4,000.00, Philippine Currency, per square meter, ruled in this manner, viz:

“ xxx xxx xxx

It is settled that the report and recommendations of the panel of commissioners were not conclusive upon the trial court which had the right and discretion to arrive at its own assessment of the land. The findings of the commissioners were at best only advisory and persuasive and by no means final or binding.

As the Supreme Court held in the case of Republic v. Santos, the Court is not bound by the commissioners' report. It may make such order and render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of condemnation, and to the defendant just compensation for the property expropriated. The trial court may substitute its own estimate of the value as gathered from the record.

In this case, the Court finds that the valuation of the subject property should be computed not from the date of taking in 1997 but from the date when the order of expropriation was issued on 7 September 2007 applying the principle of justice and fairness laid down in the case of Heirs of Mateo Pidadacan (sic), etc. v. Air Transportation Office (ATO) xxx xxx

xxx xxx xxx

Based on the evidence presented before the panel of commissioners, the reasonable fair market value in 2007 of the total affected area of Lot (sic) 1823, which is 16,500 square meters should be pegged at P66,000,000.00 or P4,000.00 per square meter taking into consideration the following: prevailing selling prices of other nearby lots in Barangay Salangan, San Miguel, Bulacan, its high economic value for residential and commercial use since the subject lot is adjacent to the Cagayan Provincial Road and it is accessible to known landmarks such as St. Paul University, Meralco Substation (sic), Iglesia Ni Cristo Chapel, Rosemoor Village and San Miguel Hospital, as well as, (sic) the fact that since the taking, the whole portion of Lot 1823 was rendered unusable as the tower and high voltage transmission lines built thereon continuously pose great threat and danger to the lives of the people.

xxx xxx xxx “

To reiterate, the price or value of the land and its nature and character at the time of its taking are the principal criteria for determining just compensation.[59] We cannot sustain the RTC's valuation at P4,000.00, Philippine Currency, per square meter for Lot No. 1823. First, the just compensation was pegged in the Year 2007, when the order of expropriation was issued, and not the just compensation as of the date of the filing of the complaint for expropriation, or as of December 17, 1997. Second, while the RTC is not bound by the commissioners' report and can consider other factors, such as but not limited to, accessibility to known landmarks and prevailing selling prices of other nearby lots, it however failed to explain on how it arrived at the price of P4,000.00, Philippine Currency, per square meter. Third, the RTC failed to elaborate on how the landmarks could have added or enhanced the value of the expropriated property. In short, the RTC's decision is not clear as to its basis for ascertaining just compensation.

The case of Republic v. Court of Appeals[60] is in point. There, the trial court, in arriving at its own valuation, gave the total amount of just compensation due to the property owner without laying down its basis, thus, the case was remanded for the proper determination of just compensation. It was ruled that while the determination of just compensation lies within the trial court's discretion, it should not be done arbitrarily or capriciously. The decision of the trial court must be based on all established rules, correct legal principles, and competent evidence. The courts are proscribed from basing their judgments on speculations and surmises, thus:

“ xxx xxx xxx

xxx xxx Besides, the trial court is not bound by the commissioners' recommended valuation of the subject property. The court has the discretion on whether to adopt the commissioners' valuation or to substitute its own estimate of the value as gathered from the records.

However, we agree with the appellate court that the trial court's decision is not clear as to its basis for ascertaining just compensation. The trial court mentioned in its decision the valuations in the reports of the City Appraisal Committee and of the commissioners appointed pursuant to Rule 67. But whether the trial court considered these valuations in arriving at the just compensation, or the court made its own independent valuation based on the records, was obscure in the decision. The trial court simply gave the total amount of just compensation due to the property owner without laying down its basis. Thus, there is no way to determine whether the adjudged just compensation is based on competent evidence. For this reason alone, a remand of the case to the trial court for proper determination of just compensation is in order. In *National Power Corporation v. Bongbong*, we held that although the determination of just compensation lies within the trial court's discretion, it should not be done arbitrarily or capriciously. The decision of the trial court must be based on all established rules, correct legal principles, and competent evidence. The court is proscribed from basing its judgment on speculations and surmises. (Underscoring ours)

xxx xxx xxx “

Since the RTC arbitrarily fixed the amount of just compensation due to the landowner at P4,000.00, Philippine Currency, per square meter. We are therefore constrained to set aside the RTC's ruling on this matter.

It is also erroneous on the part of the RTC to order, in its dispositive portion, the expropriation of Lot No. 1823 with a total area of 92,524 square meters in favor of plaintiff-appellant. The records indicate that in the Order of Expropriation dated September 7, 2007,[61] plaintiff-appellant expropriated or had the lawful right to take only 16,500 sq. m. of Lot No. 1823.

Moreover, since the remaining portion of Lot No. 1823 was rendered unusable because the tower and high voltage transmission lines built thereon continuously pose great threat and danger to the lives of the people, the RTC should have considered the consequential damages or benefits on the remaining portion. The award of consequential damages is found in Section 6, Rule 67 of the Rules of Court which explicitly provides that, “the commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken.”

As held in the case of Republic v. BPI,[62] no actual taking of the remaining property is necessary to grant consequential damages. Consequential damages are awarded if as a result of the expropriation, the remaining property of the owner suffers from an impairment or decrease in value.

The RTC also erred in

appointing four (4)
commissioners to
ascertain the just
compensation

The records also indicate that the RTC appointed four (4) commissioners, namely, Atty. Rowena H. Rama-Chavez,[63] the Branch Clerk of Court as the chairperson and Emie Pinaroc,[64] Jose Ramil Manio[65] and Manolo De Guzman,[66] as Members-Commissioners. This is improper.

Then as now, no issue may be raised on appeal unless it has been brought before the lower court for its consideration,[67] however, this rule admits of exceptions. We are accorded broad discretionary power to review unassigned errors in the following instances: (1) grounds not assigned as errors but affecting jurisdiction over the subject matter; (2) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (3) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (4) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (5) matters not assigned as errors on appeal but closely related to an error assigned; and (6) matters not assigned as errors on appeal but upon which the determination of a question properly assigned is dependent.[68]

The number of the appointed commissioners was not specifically put at issue in this appeal by the plaintiff-appellant, this matter however has to be necessarily discussed for being corollary to the main issue of the determination of just compensation. The RTC should have been guided by Section 5 of Rule 67[69] of the Rules of Court which provides that "upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. It bear stressing that the appointment of commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. Thus, trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all.[70] It appears that the RTC, in appointing four (4) commissioners, failed to observe the rules.

Even if this procedural infirmity is disregarded, We find that the commissioners' Report dated January 28, 2009[71] lacks factual basis. In the Report, Commissioners Jose Ramil Manio and Manolo De Guzman, appraisers of the Land Bank of the Philippines, opined that the fair market value in the Year 1997 was at P100.00, Philippine Currency, per square meter but We find that the recommended rate is not adequately supported by evidence. First, Commissioners Jose Ramil Manio and Manolo De Guzman attested, in their Joint Judicial Affidavit,[72] that their valuation is merely based on the data gathered from the different informants/neighborhood and their in-house files. However, no testimony of realtors in the area concerned and/or actual sales of lots in the vicinity of the lot being expropriated on or about the date of the filing of the complaint for expropriation were presented.

Further, Commissioner Manolo De Guzman admitted, on cross-examination,[73] that they failed to submit to the RTC the data purportedly gathered from the Office of the Municipal Assessor of San Miguel, Bulacan in order to arrive at the price of P100.00, Philippine Currency, per square meter, thus:

“ xxx xxx xxx

Atty. Sabironio:

Q

Mr. Witness, on question no. 8 you said that the classification of the lot is agricultural land, am I correct?

Witness:

A

Yes, sir.

Q

What basis do you have that indeed the lot is classified as agricultural land?

A

When a lot is planted with rice and there are adjacent houses and the lot is idle, it can be called as an agricultural land, sir.

Atty. Sabironio:

Q

How many lots are there that are subject of this report that you have?

Witness:

A

Only one lot, sir.

Q

And what particular lot you were mentioning?

A

Agricultural Lot No. 1823, sir.

Q

So the only basis for classifying that a lot is an agricultural land is that because you have seen it and it is adjacent to other agricultural land, and it is planted with rice?

A

Yes, sir.

Q

So you have not considered the classification with respect to the tax declaration?

A

We also considered that, sir.

Q

What is the description?

A On the basis of the tax declaration it is an agricultural land, sir.

Q Can you be able to (sic) read the classification of that lot?

A There are portion (sic) here of residential lot, sir.

Q

So am I correct, Mr. Witness, that the classification of that lot is not merely an agricultural land but there was also a classification of residential lot on that portion?

A

Yes, sir.

Q

So the land subject matter of this case is a mere agricultural land?

A

Based on the tax declaration but in actual it is an agricultural land because during our actual inspection the property is an idle land and the adjacent lots are also agricultural land, so based in our investigation or in our appraised (sic) we considered the subject lot as an agricultural land based on our actual inspection.

Q

You also said Mr. Witness that the value of the land at the time of the taking was Php 100.00 per square meter?

A

Yes, sir.

Q

And what was the basis that indeed the value of the land is only Php 100.00 per square meter?

A

Based on the data we gathered, sir.

Q

And what is that particular data that you gathered in order to arrive that the value of the land is Php100.00 per square meter?

A

We gathered the data from the office of the municipal assessor of San Miguel, Bulacan, sir.

Q

What particular data that you gathered that you arrived in that valuation?

A

We gathered it in the Office of the Municipal Assessor of San Miguel, Bulacan and that the land during that time is Php100.00 per square meter and the residential land is Php450.00 per square meter and the commercial lot is Php 850.00 per square meter, sir.

Q

So have you had (sic) produced the document that indeed that was the rate of the subject land during that time?

A

We have that data based on the records of the assessor's office, sir.

Q

But am I correct to state that data was never submitted in (sic) this honorable office?

A

We can submit but that was based on the records, sir.

Q

This was only based on the records?

A

Yes, sir.

Q

And there is no document that will substantiate that data as of now?

A

We were shown a report at the Office of the Municipal Assessor of San Miguel, Bulacan, sir.

Q

Although you said awhile ago that you saw a report to that effect and that was indeed the data that you gathered during that time, (sic) you cannot show any record, mr. witness?

A

We have not submitted any data but in the record of the municipal assessor of San Miguel, Bulacan, we saw it there, sir (Underscoring ours).

“ xxx xxx xxx

Even the recommendation of Commissioner Emie Pinaroc is flawed and not helpful. In fact, she admitted that she does not know the market value of Lot No. 1823 in the Year 1997 and the price she recommended is based on speculations. Pertinent portions of her cross-examination^[74] are quoted hereunder:

“ xxx xxx xxx

Q Since this case was filed in 1997, can you tell us what is the valuation of the said (sic) property in the said year?

A I don't know the valuation of the property in the year 1997 but at present it depends upon the owner of the property. At present it could be Php3,500.00, it can be used as residential because it is near the road, it could be P2,500 (sic) if ever the owner will develop it. It depends upon the owner how much she will sell it.

Q Based on your anser (sic) to question no. 12, your recommended valuation of the property is Php 6,000.00 per square meter?

A It depends upon the owner if the owner will convert it into a subdivision.

Q So my question is what is your recommended valuation on the subject property?

A For me is Php 3,500.00 because it is along the road and accessible to all commercial establishment and structures.

Q You also stated in question no. 12 that the prevailing market price in and around the area is Php 5,000.00 to Php 7,000.00 per square meter, what is the basis of that valuation?

A Because it is accessible to (sic) hospital, market, accessible to all and it is along the road and it can be converted into commercial.

Q What you are saying is what will be the price of the property if the same will be converted to commercial?

A Yes, Ma'am.

xxx xxx xxx

Q What is the classification of the property with the valuation of Php 3,500.00?

A It can be residential.

Q How about the property with the valuation of the Php 6,000.00?

A If it will be made into commercial.

Q What is the exact location of those property with the valuation of Php 3,500.00?

A That is “Ganoon na siya.”

Q What do you mean by ‘Ganoon na siya?’”

A Not yet developed.

Q Not yet developed Php 3,500.00

A Yes, sir.

Q How about the valuation of Php 6,000.00?

A It is already developed Php 6,000.00 to Php 7,000.00 will be the valuation.

Q Regarding your supplemental commissioner’s report, what is your basis in saying that the municipal zonal valuation of the area since year 2000 is Php 1,440.00?

A It is taken from the assessor’s office.

Q Can you provide us of the copies of this?

A I already submitted it.

Q I checked the record of the case and I can’t find here anything, what about the municipal tax declaration of Php 2,860.00, what is the basis of this and where is the amount of Php 2,860.00 here in this document, can you show it to us?

A At present, none, ma’am, (sic) that is what I gathered from the people around the place?

Q So, the price that you had indicated in your supplemental commissioner’s report specifically on the tax declaration is merely based on speculation?

A Yes, ma'am. (Emphasis supplied)

xxx xxx xxx “

It can be gleaned from the foregoing that no attempt was made to justify the recommended amount as just compensation in the subject report through other sufficient and reliable means. It appears that the commissioners' Report dated January 28, 2009 is devoid of any actual and reliable basis. In this regard, We deem it proper to remand this case to the RTC for the appointment of three (3) new commissioners and the proper determination of just compensation.

The RTC's imposition
of legal interest at six
percent (6%) per annum
is proper but the same
must reckon at the time
of taking until full payment
is made

The RTC awarded legal interest at the rate of 6% per annum commencing on September 7, 2007 until finality of the partial judgment. This should be modified.

Jurisprudence^[75] teaches that the legal interest allowed in payment of just compensation for lands expropriated for public use is six percent (6%) per annum from the time of the taking of the possession up to the time that full payment is made. The RTC's imposition of legal interest at the rate of 6% per annum was proper but the same shall commence from the time of the taking up to the time that full payment is made.

The RTC also erred in ordering
that the amount of P1,285,177.70,
Philippine Currency, be deducted
from the just compensation
due to defendant-appellee

The RTC, in its dispositive portion, ordered plaintiff-appellant to pay the rightful and lawful owner of Lot No. 1823 the amount of P4,000.00, Philippine Currency, per square meter as the just compensation for the taking with legal interest thereon at 6% per annum commencing on September 7, 2007 until finality of this partial judgment, deducting therefrom plaintiff-appellant's provisional deposit in the amount of P1,285,177.70, Philippine Currency, with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68.

The records show that plaintiff-appellant's deposit in the amount of P1,285,177.70, Philippine Currency, with the Land Bank of the Philippines, NPC Branch, Diliman, Quezon City, under Account Number HYSA-2821-0103-68, represents the provisional value of the properties sought to be expropriated^[76] and does not pertain only Lot No. 1823. It must be stressed that in computing the just compensation, the amount already received by the landowner should be deducted from the valuation.^[77] There is no showing that the entire amount of P1,285,177.70, Philippine Currency, was actually paid to or received by the owner of Lot No. 1823. Hence, should be deleted.

The RTC also erred
in ordering both
parties to pay the
commissioners' fees

The RTC's order that both parties shall pay each commissioner the amount of P800.00 per hearing as commissioners' fee is erroneous.

Section 12, Rule 67 of the Rules of Court[78] provides that the fees of the commissioners shall be taxed as part of the costs of the proceedings. All costs, except those of rival claimants litigating their claims, shall be paid by the plaintiff. Clearly, plaintiff-appellant is liable for the payment of the commissioners' fees.

WHEREFORE, premises considered, the appeal is PARTLY GRANTED. The Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76 is directed to:

1. Appoint a new set of commissioners to ascertain and report to the RTC the just compensation, in accordance with Rule 67 of the Rules of Court and this Decision, for the 16,500 sq.m. of land taken from Lot No. 1823 covered by TCT No. T-129607 of the Registry of Deeds of Bulacan and to assess the consequential benefits or damages to the remaining portion thereof.
2. For plaintiff-appellant to pay the full market value of the expropriated land, as determined by the RTC conformably with this Decision, with an area 16,500 sq.m. of Lot No. 1823 covered by TCT No. T-129607 of the Registry of Deeds of Bulacan as just compensation to be computed as of the date of the filing of the complaint;
3. For plaintiff-appellant to pay legal interest at six percent (6%) per annum from the time of the taking of the possession up to the time that full payment is made;
4. For plaintiff-appellant to pay the commissioners' fee;
5. The RTC of Malolos City, Bulacan, Branch 76 is directed to resolve this case with deliberate and full dispatch.

SO ORDERED.

[*]Sison-Gonzales, M., Acting Chairperson, and [**]Diamante, F.N., JJ., concur.

[*] Acting Chairperson per Office Order No. 72-15-RDC dated March 6, 2015.

[**] Acting Senior Member per Office Order No. 72-15-RDC dated March 6, 2015.

[1] Penned by Judge Albert R. Fonacier; Records, pp. 485-490.

[2] which cancelled TCT No. RT-32492 (T-98721) of the Registry of Deeds of Bulacan and is issued in the name of Banco Filipino Savings and Mortgage Bank, Records, pp. 341-342.

[3] Ibid., pp. 2-9.

[4] Should be 1,012.075 sq.m.

[5] Should be T-20539 (M).

[6] Defendant Spouses Primitiva Gener and Marcos Gumasing's Answer, Id., pp. 587-588, and Defendants Spouses Espiridion and Lourdes Policarpio, Heirs of Lucia Nieto, Avanceña, et al, Spouses Avena and Mendoza, et al.'s Answer, Id., pp. 606-610.

[7] Id., pp. 19-23.

[8] Id., pp. 618.

- [9] Id., pp. 619-620.
- [10] Id., p. 51.
- [11] Id., p. 52.
- [12] Id., pp. 255-258.
- [13] Id, pp. 187-192.
- [14] Id, pp. 198-202.
- [15] Id.,pp. 207-212
- [16] Id., pp. 217-223.
- [17] Id., pp. 659-661, Entry of Judgment, p. 197.
- [18] Id., pp. 691-692, Entry of Judgment, p. 206.
- [19] Id., pp. 718-720, Entry of Judgment p. 216.
- [20] Id., pp. 727-730, Entry of Judgment, p. 228.
- [21] Id., pp. 251-253.
- [22] Id., pp. 274-275.
- [23] Id., pp. 284-286.
- [24] Id., pp. 304-308.
- [25] Id., pp. 311-312.
- [26] Id., p. 309.
- [27] Id., p. 310.
- [28] Id., pp. 313-314.
- [29] Id., p. 322.
- [30] Id., p. 323.
- [31] Id., p. 324.
- [32] Id., p.325.
- [33] See RTC Orders dated May 30, 2008, June 11, 2008 and June 18, 2008, Id., pp. 883-885.
- [34] Id., pp. 423-438.
- [35] Id., pp. 463-465.
- [36] Id., pp. 468-471.
- [37] Id., pp. 473-482.

[38] 395 SCRA 494.

[39] Supra, Note 1.

[40] G.R. No. 162779, June 15, 2007.

[41] which cancelled TCT No. RT-32492 (T-98721) of the Registry of Deeds of Bulacan and is issued in the name of Banco Filipino Savings and Mortgage Bank, Records, pp. 341-342.

[42] Id., pp. 491-496.

[43] Id., pp. 499-503.

[44] Id., pp. 505-510.

[45] Id., pp. 532-534.

[46] Plaintiff-Appellant's Brief; Rollo, pp. 30-52.

[47] G.R. No. 162779, June 15, 2007.

[48] See Resolution dated August 3, 2012, Rollo, p. 88.

[49] Defendant-Appellee's Brief; Ibid., pp. 97-106.

[50] Defendant-Appellee's Brief, Id., pp. 119-138.

[51] G.R. No. 162779, June 15, 2007.

[52] NAPOCOR v. Co, G.R. No. 166973, February 10, 2009. Citing Republic v. Court of Appeals, G.R. No. 147245, 31 March 2005, 454 SCRA 516. See also Beluso et al. V. Municipality of Panay, G.R. No. 153974, August 7, 2006. citing Heirs of Suguitan v. City of Mandaluyong, 384 Phil. 676, 687 (2000); Municipality of Parañaque v. V.M. Realty Corporation, 354 Phil. 684, 691 (1998); see also Antonio v. Geronimo, G.R. No. 124779, November 29, 2005, 476 SCRA 340, 350.

[53] City of Iloilo v. Hon. Contreras-Besana and Javellana, G.R. No. 168967, February 12, 2010. citing Estate of Salud Jimenez v. Philippines Export Processing Zone, 402 Phil. 271, 284 (2001). City of Manila v. Serrano, 411 Phil. 754, 765 (2001).

[54] City of Iloilo v. Hon. Contreras-Besana and Javellana, Ibid., citing B.H. Berkenkotter & Co. v. Court of Appeals, G.R. No. 89980, December 14, 1992, 216 SCRA 584, 587. See Sec. 4, Rule 67 of the Rules of Court. See also NAPOCOR v. Co, G.R. No. 166973, February 10, 2009. Citing B.H. Berkenkotter & Co. v. Court of Appeals, G.R. No. 89980, 14 December 1992, 216 SCRA 584, 587, citing Republic v. Philippine National Bank, 1 SCRA 957 and reiterated in National Power Corporation v. Dela Cruz, G.R. No. 156093, 2 February 2007, 514 SCRA 56; Romonafe Corporation v. National Power Corporation, G.R. No. 168122, 30 January 2001, 513 SCRA 425, 429.

[55] G.R. No. 162779, June 15, 2007.

[56] National Power Corporation v. Co, G.R. No. 166973, February 10, 2009. citing NAPOCOR vs. Manubay Agro-Industrial Development Corporation, G.R. No. 150936, 18 August 2004, 437 SCRA 60.

[57] BPI v. Court of Appeals, G.R. No. 160890, November 10, 2004. citing NPC v. Manubay Agro-Industrial, G.R. No. 150936, 18 August 2004. Jose Y. Feria and Maria Concepcion S. Noche, Civil Procedure Annotated, Vol. 2, 2001 Ed., p. 543; citing Manila Railroad Co. v. Velasquez, 32 Phil. 286, 313-314 (1915) and Province of

Tayabas v. Perez, 66 Phil. 467 (1938).

[58] BPI v. Court of Appeals, *Ibid.*, citing National Power Corporation v. Chiong, G.R. No. 152436, 20 June 2003, 404 SCRA 527, 538–539.

[59] National Power Corporation v. Iletto, et al, G.R. Nos. 169975 & 171558, July 11, 2012. See also National Power Corporation v. Manubay Agro-Industrial Development Corp., G.R. No. 150936, August 18, 2004. citing National Power Corporation v. Chiong, 404 SCRA 527, June 20, 2003. See NAPOCOR v. Spouses Malit, G.R. No. 60077, January 18, 1991. citing National Power Corp., v. Court of Appeals, 129 SCRA 665, (1984).

[60] G.R. No. 160379, August 14, 2009. citing Republic of the Philippines v. Santos, 225 Phil. 29, 35 (1986), citing Manila Railroad Company v. Velasquez, 32 Phil. 286 (1915), Section 8, Rule 67 of the 1997 Rules of Court, NAPOCOR v. Bongbong, G.R. No. 164079, 3 April 2007, 520 SCRA 290, 304. Manansan v. Republic, G.R. No. 140091, 10 August 2006, 498 SCRA 348, 363, citing Manila Railway Company v. Fabie, 17 Phil. 206, 209 (1910).

[61] *Supra*, Note 24.

[62] G.R. No. 203039, September 11, 2013. citing Republic of the Philippines v. Court of Appeals, G.R. No. 160379, August 14, 2009, 596 SCRA 57,75.

[63] *Id.*, p. 322.

[64] *Id.*, p. 323.

[65] *Id.*, p. 324.

[66] *Id.*, p.325.

[67] Sesbreño v. Central Board of Assessment Appeals, G.R. No. 106588, March 24, 1997.

[68] Sumipat v. Banga, G.R. No. 155810, August 13, 2004. citing Catholic Bishop of Balanga v. Court of Appeals, G.R. No. 112519, November 14, 1996, 264 SCRA 181.

See also Santos v. Court of Appeals, G.R. No. 100963, April 6, 1993, 221 SCRA 42.

[69] Section 5, Rule 67 of the Rules of Court provides:

“ xxx xxx xxx SEC. 5. Ascertainment of compensation. – Upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify within which their report shall be submitted to the court.

xxx xxx xxx

xxx xxx xxx “

[70] Spouses Ortega, v. City of Cebu, G.R. Nos. 181562-63 & 181583-84, October 2, 2009. citing National Power Corporation v. Dela Cruz, G.R No. 156093, February 2, 2007. 514 SCRA 56,69. and Forfom Development Corp. v. Philippine National Railways, G.R. No. 124795, December 10, 2008.

[71] Records, pp. 423-438.

[72] Joint Judicial Affidavit of Manolo De Guzman and Jose Ramil Manio, *Ibid.*, pp.389-394.

[73] TSN dated November 26, 2008, pp. 9-13.

[74] TSN dated December 11, 2008, pp. 7-9

[75] Spouses Cabahug v. NPC, G.R. No. 186069, January 30, 2013. citing Republic v. Libunao, G.R. No. 166553, 30 July 2009, 594 SCRA 363, 378. See NAPOCOR v. Spouses Iletto, et al., G.R. Nos. 169957 & 171558, July 11, 2012, citing Section 10, Rule 67 of the Rules of Court; See also Republic v. Spouses Libunao, G.R. No. 166553, July 30, 2009. citing National Power Corporation v. Court of Appeals, G.R. No. 106804, August 12, 2004, 436 SCRA 195, 211, citing National Power Corporation v. Court of Appeals, 129 SCRA 665, 674 (1984), Amigable v. Cuenca, 43 SCRA 360, 364-365 (1972); National Power Corporation v. Angas, 208 SCRA 542, 548-549 (1992).

[76] Urgent Ex-Parte Motion for the Issuance of a Writ of Possession, Records, pp. 594-597 and Notice to Take Possession, Ibid., pp. 600-602.

[77] NAPOCOR v. Spouses Iletto, et al., G.R. Nos. 169957 & 171558, July 11, 2012.

[78] Section 12, Rule 67 of the Rules of Court provides:

“ xxx xxx xxx SEC. 12. Costs, by whom paid. – The fees of the commissioners shall be taxed as part of the costs of the proceedings. All costs, except those of rival claimants litigating their claims, shall be paid by the plaintiff, unless appeal is taken by the owner of the property and the judgment is affirmed, in which event the cost of appeal shall be paid by the owner.

xxx xxx xxx“

[79] which cancelled TCT No. RT-32492 (T-98721) of the Registry of Deeds of Bulacan and is issued in the name of Banco Filipino Savings and Mortgage Bank, Records, pp. 341-342.

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