

THE MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLANT, VS. MARIA DEL CARMEN RODRIGUEZ ET AL., DEFENDANTS.-MARIA DEL CARMEN ROPRIGUEZ, APPELLANT.*G.R. No, 4946. March 27, 1909*

Ponente: TORRES, J.

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On November 18, 1907, The Manila Railroad Company filed with the Court of First Instance of Cavite a complaint alleging that, under the provisions of Act No. 1510 of the Philippine Commission, passed July 7, 1906, said company, a corporation duly organized and domiciled in this city, was granted authority to locate, construct, equip, maintain and operate certain railway lines in the Island of Luzon, one of them being that from Manila to Cavite. For this purpose the grantee has the right to acquire by condemnation the lands necessary for the right of way, bridges, and stations, whenever the land can not be acquired from their owners by contract;

That for the construction of the branch line from Manila to Cavite, from the Tondo main station, the plaintiff company must acquire a certain strip of land within the municipality of Cavite, province of the same name, and containing two parcels of land belonging to the defendants. Parcel A, the property of Maria del Carmen Rodriguez, from a point at kilometer No. 29.960 on the map, north 14' 59" east, in a straight line 77 meters long, followed by a curve, the arc of which measures 248.77 meters with a radius of 400 meters; from this point, north 63' 43" east, extends a straight line 722 meters long to the border of the land of Josefa Rodriguez. The described strip of land is 30 meters wide, and deducting 2,333.10 meters for streets, there is a total area of 29,100 square meters. The other parcel marked B is the property of Sidney D. Sugar, and beginning at a point marked on the map 20 meters before that marked No. 100 north 14' 59" east, is a straight line which measures 920 meters and ends at point 28K. Said line forms the axis of the road leading to Cavite, and is at the same time the left side of a rectangle 15 meters wide, with an area of 13,800 square meters, and is bounded on the north by land of Rodriguez, on the south and east by the Dalahican cove, and on the west by land owned by the municipality of Noveleta;

That Enrique Rodriguez is made a party defendant in this action, he having the right of redemption on the parcel owned by Sidney D. Sugar, because the period of one year fixed by Act No. 190, for the exercise of such right from the date when defendant Sugar bought the parcel of land at sheriff's sale has not yet expired; that the company has, up to the present, been unable to acquire by contract the said parcels from the two mentioned defendants, in view of the high and unreasonable price they are asking for the same;

That the assessed value of the parcel owned by Carmen Rodriguez is P5,820, while the parcel owned by Sidney D. Sugar is assessed at P966.

That the company needs to commence immediately the work of locating the track for said line but is unable to do so because the defendants who own the parcels of land required by the company object, and delay in the performance of the work would greatly prejudice the company; that the only means to prevent it is the occupation

by the company of the two parcels described in paragraph 3 of the complaint, said company offering to deposit the respective assessed value of both parcels, amounting to P6,786, plus 15 per cent of said sum, or a total of P7,804. Therefore, the company, in accordance with the provisions of Acts Nos. 190, 1258, and 1592 of the Philippine Commission, prays the court that the defendants be served with process to appear and answer within a short period of time the complaint filed by it, the court acting in accordance with the power granted it by Act No. 1258; that, upon an answer having been filed the court appoint commissioners to assess the value of the land and the improvements thereon; that a judgment for the condemnation of land be rendered, giving the said company the right of dominion over said parcels of land and any just and equitable relief; and that as a special relief, the company prayed the court that upon the filing of its complaint with the office of the clerk of the court, an order be issued authorizing the company to occupy the parcels of land described in paragraph 3 of its complaint, in accordance with the provisions of Act No. 1510, in order to enable the company to immediately commence the location and construction of the track, the company offering to deposit the sum above-mentioned as a provisional value of the land whose condemnation is sought under the provisions of Act No. 1592.

The defendant Jose Iturralde, in his capacity of executor of the late Maria del Carmen Rodriguez, in his answer to the complaint set forth: That he admits the statements contained in paragraphs 1, 2, 3, 8, and 9 of the complaint; that he has nothing to say with respect to paragraphs 4, 7, and 10, because they do not affect his interests; that he enters a denial with reference to paragraphs 5 and 6 of the complaint, and specially denies that he had asked an excessive price for the condemnation of the land owned by said deceased and that he is opposed to the granting of the relief sought in paragraph 11, because it is unnecessary and prejudicial to the interests of the defendants; he also requests the appointment of commissioners to ascertain the value of the parcel of land marked "A" on the map as well as the damages that the condemnation proceedings will cause the defendant.

By his answer, the other defendant, Sidney D. Sugar, stated: That he admits paragraphs 1, 2, 3, 8, and 9 of the complaint; that he has nothing to say with respect to paragraphs 6 and 10 because they do not affect his interests; that he enters a denial with reference to paragraphs 5 and 7 of the complaint, and also denies that he had asked an excessive price for the condemnation of the parcel of land marked "B;" that he also enters a denial with reference to paragraph 4 of the complaint, because Enrique Rodriguez does not possess the right of redemption mentioned therein; that he is opposed to the granting of the relief sought by paragraph 11 on account of its being unnecessary and prejudicial to his interests, and he requests the appointment of commissioners to ascertain the value of parcel B as well as the damages which said condemnation proceedings may cause him.

By its order dated December 21, 1907, the lower court appointed the members of the committee charged with the duty of ascertaining the indemnity to be paid for the parcels of land to be condemned, and on March 12, 1908, said committee filed their report of the matter.

In an exhaustive consideration of the subject, the report of the commissioners concludes by stating that after a careful study of the matter and all pertinent data they are of the opinion that the land of Carmen Rodriguez, represented by Jose Iturralde, is situated in an inhabited place and as a just and equitable indemnity there should be paid to its owner P1.25 per square meter, and the sum of P13,459.74 for the trees and walls destroyed and damages caused to the portion of the owner's property not condemned; and that the land of Sidney D. Sugar should be paid for at the rate of P0.60 per square meter.

On the 25th of the same month, the plaintiff company filed its opposition to the approval of the report of the commissioners, and in view thereof the lower court designated a day and summoned all the parties for the discussion of said report and the opposition filed by the company. The hearing took place on April 14, 1908, and during its course the committee exhibited to the court the documentary evidence filed with them by the parties, while the plaintiff presented documentary evidence as to the value of the parcels of land involved, besides the oral

evidence adduced by both sides. On April 23 the lower court rendered final judgment in this action and adjudged that defendant Sidney D. Sugar should recover from the plaintiff the sum of P8,280, and the representative of the estate of Maria del Carmen Rodriguez the sum of P30,469.24; it also ordered that the sum of P96 be paid each of the commissioners, Ramon Magcauas, Jose Vaca, and Ceferino Herrera, for their services during twenty-four days, with the costs against the plaintiff.

On May 13, 1908, the plaintiff company excepted to said judgment and moved for a new trial, on the ground that said judgment is contrary to law and is not supported by the evidence, and that, furthermore, the findings of fact made therein were manifestly and plainly against the weight of the evidence. The plaintiff company also excepted to any order of the court denying a rehearing in case such were issued. Such order was issued on the 12th of June, 1908, and by virtue of said proceedings the case is before this court by bill of exceptions.

On May 9, 1908, counsel for Carmen Rodriguez also excepted to said judgment, and on the 14th of said month moved for a new trial on the ground that the judgment is contrary to law and is not supported by the evidence, and in case that his motion for new trial be denied, he excepted to the ruling denying the motion, which was in fact denied by order of June 12. The corresponding bill of exceptions was prepared and certified and has been forwarded to the office of the clerk of this court.

Inasmuch as the report of the commissioners appointed by the lower court to fix the indemnity to be paid for the parcels of land sought to be condemned by the plaintiff, is not in conformity with the provisions of the law in the case and does not comply with the requirements that are necessary to ascertain with correctness and in accordance with the law the amount of the indemnity, this opinion will not deal with the question raised by the appellants in their respective assignments of errors, and will only state the reasons why the report of the commissioners should not have been approved.

Section 244 of the Code of Civil Procedure, among others, contains the following provisions:

"The commissioners shall assess the value of the property taken and used, and shall also assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owners from the public use of the land taken, or from the operation of its franchise by the corporation, or by the carrying on of the business of the corporation or person taking the property: Provided, The consequential benefits assessed shall in no case exceed the consequential damage assessed: Provided further, That nothing in this section shall be so construed as to deprive the owner of the actual value of his property so taken or used."

The report of the commissioners is lengthy and exhaustive in regard to what has been alleged and proved by the parties with reference to the respective values of the lands to be condemned, the trees and walls destroyed, and the damages caused to their owners; however, said commissioners in their conclusions did not fulfill the requirements provided by the law, for the report does not contain any specific statements fixing in a positive manner the value of the property so condemned, and the consequential damages caused to the portions of the property not taken; they have not stated the consequential benefits, deduced from said damages, to be derived by the owners from the public use of the land taken; or from the operation of the franchise granted, or by the carrying on of the business of the corporation seeking the condemnation of the property. Therefore, in view of these material defects it is improper to approve said report, it being the basis of the judgment appealed from, and for this reason it should be held null and void because the commissioners who presented it have absolutely disregarded the provisions of the law.

Considering that, if the report of the commissioners as well as the judgment rendered in condemnation proceedings are purported to secure for the plaintiff the free exercise of the rights recognized and granted to him

by the law, and also to secure for the owner of the land condemned a just indemnity therefor, so that the latter shall not be deprived of its just value without the corresponding indemnity, by the filing of a report which is essentially defective, and in order that in the present action the provisions of the law might be complied with and the controversy between the parties might be properly adjusted without injuring their respective rights, it is indispensable that a new trial in the lower court be ordered, that the new commissioners to be appointed may act in accordance with law, and state in their report the points above referred to and those required by sections 243, 244, and 245 of the Code of Civil Procedure.

For the above given reasons, and in accordance with the provisions of section 246 of the said code, we are of the opinion that the judgment appealed from and the report of the commissioners should be and they are hereby reversed and held to be null and void, and that the case should be remanded to the court from whence it came with a certified copy of this decision.

Arellano, C J., Mapa, Johnson, and Carson, JJ., concur.

Willard, J., dissents.

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