

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
PHILIPPINE NATIONAL BANK, ET AL., DEFENDANTS. VICENTE J.
FRANCISCO, DEFENDANT AND APPELLANT.***G.R. No. L-14158. April 12, 1961*

Ponente: CONCEPCION, J.

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Proceedings, begun on January 16, 1950, for the expropriation of fifty-four (54) lots needed for the construction, by the National Government, of the Commonwealth Avenue, in the Barrio of Culiat, Quezon City. This appeal refers to one of said lots, namely, Lot 795-B-3-A, with an area of 14,026 square meters, which is part of Lot 795-B-3, with an area of 42,844 square meters, belonging to defendant Vicente J. Francisco, hereinafter referred to as the defendant, and mortgaged for P60,000 to the Philippine Bank of Communications, which has, accordingly, been included, also, as one of the defendants.

In an amended complaint, filed on January 9, 1952, the portion sought to be taken from said Lot 795-B-3 was increased, from 13,110 square meters, as its area was under the original complaint, to 14,026 square meters. By an order dated January 17, 1952, the Court of First Instance of Rizal admitted the amended complaint and authorized plaintiff to take possession of said land, upon deposit of the sum of P7,013.00 as the provisional value set forth in said pleading and fixed by the court. On motion of the defendant, filed on February 17, 1952, he was allowed to withdraw said amount. Plaintiff's right to expropriate being, in effect, conceded, Catalino Lacson, Jose Padilla and Moises Romero were appointed commissioners to ascertain and report on the amount of the compensation due to said defendant. After appropriate proceedings, commissioner Lacson recommended payment to him at the rate of P18.00 per square meter, aside from P10,000 as consequential damages. Commissioners Padilla and Romero, however, recommended payment of no more than P6.00 per square meter. In due course, the lower court rendered a decision, the dispositive part of which reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered in this case fixing the just compensation and reasonable value of the property of Vicente J. Francisco which was expropriated by the Government at the rate of P10.00 per square meter and the plaintiff Republic of the Philippine is hereby directed to pay the defendant Vicente J. Francisco, the said amount of P10.00 for every square meter of the latter's land taken by the former or the total amount of P149,420.00 with interest thereon at the rate of 6% per annum from March 26, 1952, the date the property was actually taken by the plaintiff, until the same is fully paid (re interest, See case of Philippine Railway Co. vs. Solon, 13 Phil., 34; Republic vs. Gonzales et al., 50 Off. Gaz, No. 6, 2641 [1954]). From this amount must, however, be deducted the amount of P7,013.00 which was deposited by the plaintiff as the provisional value of the property and which amount was delivered to the defendant Vicente J. Francisco.

"Without special pronouncement as to costs."

The case is now before us on appeal taken by both parties, the amount claimed by the defendant being in excess of P200,000.00, exclusive of interest and costs. The questions for determination are: (1) What is the fair market

value of the property taken? (2) Is the defendant entitled to consequential damages? (3) Must the defendant be required to cause the mortgage on the property in question to be cancelled? (4) Should interest be paid on the aggregate compensation due the defendant?

With respect to the value of the land taken by the Government, two (2) issues have been raised, namely: (a) as of what time should it be determined? (b) What was its fair market value as of that time?

With respect to the first issue, plaintiff maintains that said value should be fixed as of January 16, 1950 when this case was instituted, for Rule 69, section 5, of the Rules of Court provides:

"When such a motion is overruled or when any party fails to defend as required by this rule, the court may enter an order of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, for the public use described in the complaint, upon the payment of just compensation, to be determined as of the date of the filing of the complaint. After the entry of such an order no objection to the exercise of the right of condemnation shall be filed or heard and the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court fixes." (Italics supplied.)

Upon the other hand, defendant contends that the cases of *Provincial Government of Rizal vs. Caro de Araullo* (53 Phil., 308) and *Republic of the Philippines vs. Lara* (96 Phil., 170; 50 Off. Gaz., 5778) support the view that said value should be determined as of March 26, 1952, when possession of his property was taken by plaintiff.

The first case involved a land taken by the government in 1927, or prior to the condemnation proceedings, initiated in 1928. Explaining why the value should be fixed as of 1927, not 1928, this Court said:

"As clearly appears from the evidence of record, the value of the property in question was greatly enhanced between the time when the extension of the street was laid out and the date when the condemnation proceedings were filed, because of the fact that one of the widest and most important streets in the City of Manila was to be extended through the municipality of Pasay, thereby making the land affected practically a part of the City of Manila and giving it a frontage on one of the city's principal boulevards. The property had further increased in value when the commissioners held hearings a year and a half after these proceedings were filed. In other words, the value of the property was enhanced by the purpose for which it was taken. In our opinion the owners of the land have no right to recover damages for this unearned increment resulting from the construction of the public improvement for which the land was taken. To permit them to do so would be to allow them to recover more than the value of the land at the time when it was taken, which is the true measure of the damages, or just compensation, and would discourage the construction of important public improvements." (Italics ours.)

In the second case, plaintiff, likewise, took possession before the filing of the complaint, and the compensation was similarly ascertained (as of the time of the taking), for:

"Plaintiff-appellant's second argument that the value of the lands 'expropriated must be reckoned as of the time of the actual possession by it in 1946, and not as of the time of the filing of this complaint in 1949 is, however, well taken. We believe the Court below erred in holding that because section 5 of Rule 69 now provides that the payment of just compensation must be determined as of the date of the filing of the complaint, our ruling in the case of *Provincial Government vs. Caro*, 58 Phil., 308, is deemed superseded. Ordinarily, inquiry is limited to actual market value at the time of the institution of the condemnation proceedings because, under normal circumstances, the filing of the complaint coincides or even precedes the taking of the property by the plaintiff; and Rule 69 simply fixes this convenient date for the valuation of property sought to be expropriated. Where, however, the actual taking or occupation by the plaintiff, with the consent of the landowner, long precedes the filing of the complaint for expropriation, the rule to be followed must still be that enunciated by us in *Provincial Government of Rizal vs. Caro*, supra, that the value of the property should be fixed as of the date, when it was taken and not the date of the filing of the proceedings. For where property is taken ahead of the

filing of the condemnation proceedings, the value -thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property" should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way the compensation to be paid can be truly just; i.e., 'just' not only to the individual whose property is taken, but to the public, which is to pay for it." (Italics ours.)

It is apparent from the foregoing that, when plaintiff takes possession before the institution of the condemnation proceedings, the value should be fixed as of the time of the taking of said possession, not of filing of the complaint, and that the latter should be the basis for the determination of the value, when the taking of the property involved coincides with, or is subsequent to, the commencement of the proceedings. Indeed, otherwise, the provision of Rule 69, section 5, directing that compensation "be determined as of the date of the filing of the complaint", 'would never be operative. As intimated in *Republic vs. Lara* (supra), said provision contemplates "normal circumstances", under which "the complaint coincides or even precedes the taking of the property by the plaintiff". In fact, the complaint, normally, precedes, and does not coincide with, such taking of the property, for "upon the filing of the complaint or at any time thereafter" plaintiff can not, over defendant's objection—and the institution of the proceedings generally indicates an issue between the parties—take possession of said property without an order of the court fixing provisionally its value and without depositing the same (Rule 69, section 3, Rules of Court). Thus, in the case of *Republic of the Philippines vs. Narciso, et al.* (L-6594, May 18, 1956), which was commenced sometime before the plaintiff had taken possession of defendant's property, this Court, speaking through Justice Bengzon, held that "the prices to be considered are those at the beginning of the expropriation", and not, accordingly, at the time of the taking of said property.

We hold, therefore, that the value of the property of defendant herein should be determined as of January 16, 1950.

The evidence thereon, aside from defendant's testimony, consists of deeds of sale (Exhibit F to J) of lots situated in the vicinity of his property. In fact, the lots involved in Exhibits I and J adjoin defendant's lot. The transactions evidenced by said Exhibits F to J are, chronologically shown in tabulated form, as follows:

Exhibits	Lot No.	Indicated Date of Sale	Price per
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	in Exh. "A"	sq. meter	
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"H"	12-A & 12-B	Mar. 30, 1948	
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			P0.05
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"G"	40-A & 40-B	July 15, 1948	
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			1.28
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"F"	2-E, Psd-17462	Mar. 2, 1949	
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3.14

"I" 795-B-2-A Mar. 18, 1949

3.20

"J" 795-B-2 July 6, 1949

3.26

We note that the price of lands in the area covered by this proceedings was only P0.05 a square meter on March 30, 1948 and that three (3) months and a half later, or on July 15, 1948, it rose to P1.28 a square meter, or an increase of P.23 per square meter. The reason, therefore, is not difficult to surmise. Meanwhile, House Bill No. 2003, making Quezon City "the Capital of the Philippines and the Permanent Seat of the National Government", had been passed. On July 17, 1948, the bill was approved and became Republic Act No. 333. From July 15, 1948 to March 2, 1949, or a period of seven and a half months, the value went up to P3.14 a square meter, or an increase of P1.86 per square meter. But, thereafter, the price appears to have stabilized and the rate of increase became gradual. Thus, from March 2 to March 18, 1949, or after sixteen (16) days, it rose P0.06 a square meter, or less than P0.004 a day per square meter, and from March 18 to July 6, 1949, or a period of 108 days, it went up to P0.16 a square meter, or an increase of less than P0.0015 daily. In other words, the rate of increase became slower, as time progressed. In any event, at said rate of increase of P0.0015 per square meter daily, the market value on March 16, 1960, or a little over eight (8) months later, when defendant filed his answer to the original complaint, would have been less than P3.75 per square meter. Thus, it is understandable that he alleged, in his aforementioned answer, that the actual market value of his land is "not less than P5.00 a square meter". As stated by this Court, in *Republic of the Philippines vs. Narciso, et al.* (supra):

"The defendants themselves in their answers and pleadings asked P2,000 per hectare. This is evidence of the highest order: Admission by the owners. (See *Am. Jur.* p. 993). Their valuation of the property may not in law be binding on the Government or the Court; but it should at least set a ceiling price for the compensation to be awarded. The price of the condemned property should not be higher than what the owner demanded." (Italics supplied.)

Upon the other hand, the only evidence in support of defendant's claim that the value of his land is from P18 to P20 per square meter consisted of his own opinion, which is not competent evidence, for he has not qualified as real estate expert. Furthermore, his opinion was predicated upon the false premise that said value should be determined as of the date of the taking by the Government, on March 26, 1952, aside from the fact that it is contradicted by the allegation in his answer, dated February 17, 1952, to the amended complaint, to the effect that the "actual market value" of said land "is P10.00 per square meter." Again, even if determined as of March 26, 1952, the value of the property then taken, at the aforementioned rate of daily increase of P0.0015, would be only P4.85 per square meter.

Upon the foregoing evidence, it would appear that the sum of P5.00 per square meter stated in defendant's answer to the original complaint, constitutes a liberal estimate, in his favor, of the ceiling of the fair market value of his property. Considering, however, that Lot No. 795-B-2-B-1, belonging to Claro M. Recto, which adjoins that of the defendant on the Northeast, was expropriated at the rate of P6.00 per square meter, in pursuance of a compromise agreement, it would be but fair and just that defendant herein be compensated at the same rate of

P6.00 per square meter, as recommended by the majority of the commissioners on appraisal.

Defendant claims by way of damages, P10,000 for the fence on his land and P1,000 for the fruit-bearing trees thereon. Defendant maintains that he had a barbed wire fence with wooden posts, which was destroyed when the Government took possession of his land. The evidence on such fence is, however, far from satisfactory. In fact, the few posts then found in Ms land were of bamboo. Defendant would have us believe that the people living in the vicinity took the wooden posts and replaced them with bamboos. It is, however, incredible that persons guilty of the plundering imputed to them would take the trouble of making said replacement. Moreover, it is obvious that this was a mere surmise of the defendant. Again, the value of such improvements, if any, has no longer existed, due to the alleged rapacity of his neighbors, when possession was taken by the Government, should not be borne by the latter.

As regards the fruit-bearing trees, it appears that the same were in the portions of defendant's land not taken by the Government. He alleges, however, that said trees were destroyed by animals that grazed in his land upon the destruction of its fence. This, however, appears to be a consequence of the predatory acts of defendant's neighbors, before the possession was taken by the plaintiff, so that it cannot be held liable therefor. At any rate, considering that prior thereto, the land in question had no access to the highway, which it now has, due to the construction of the Commonwealth Avenue, and that the value of the lands in that place has risen, according to the defendant, to from P18 to P20 a square meter, it is apparent that the consequential benefits derived by his remaining property, with an area of 28,818 square meters, more than offset the consequential damages he claims to have suffered.

Plaintiff's claim to the effect that defendant should be required to cause the mortgage on the expropriated land to be cancelled is clearly well taken, for "it is but right for the government to acquire the property free from encumbrance." (Republic of the Philippines vs. Deleste, L-7208, May 23, 1956.)

The decision appealed from sentences the plaintiff to pay interest on the full amount of the compensation awarded to the defendant. We agree with the plaintiff that interest should not accrue to the sum of P7,013.00 collected by the defendant way back in 1952, as soon as plaintiff took possession of the land in question, and that it should be charged only on the difference between the aggregate compensation adjusted to defendant herein and said sum of P7,013.00.0

Wherefore, the decision appealed from should be, as it is hereby modified, and judgment shall be entered, as follows:

- Plaintiff shall pay defendant Vicente J. Francisco the sum of Six Pesos (P6.00) per square meter, or the aggregate sum of Eighty Four Thousand One Hundred Fifty Six Pesos (P84,156.00), for 14,026 square meters, with interest, at the rate of 6% per annum, from March 26, 1952, on the sum of Seventy Seven Thousand One Hundred Forty-Three Pesos (P77,143.00), representing the difference between said sum of P84,156.00 and the sum of P7,013.00 already received by the defendant; and
- Defendant Vicente J. Francisco shall, within a reasonable period of time to be fixed by the lower court, cause the encumbrance on the expropriated property, or Lot No. 795-B-3-A, to be cancelled before the above-mentioned compensation is paid to him, or if he has already collected it, the lower court shall take such measures as may be necessary or convenient in order that said encumbrance be cancelled at defendant's expense.

Without special pronouncement as to costs. It is so ordered.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Reyes, J.B.L., Barrera, and Dizon, JJ., concur.

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