

LAND BANK OF THE PHILIPPINES, PETITIONERS, VS. HEIRS OF ELEUTERIO CRUZ, REPRESENTED BY LORNA CRUZ, ET AL., RESPONDENTS.

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

In this action for determination of the just compensation, Land Bank of the Philippines (LBP) appeals the judgment dated December 7, 2005 rendered by the Regional Trial Court (RTC), Branch 1, in Tuguegarao City, sitting as a Special Agrarian Court,[1] that determined a valuation higher than its initial determination.

The respondents were the Heirs of Eleuterio Cruz, the registered owners of the unirrigated riceland situated at Lakambini, Tuao, Cagayan containing an area of 13.7320 hectares and covered by TCT No. T-368.

Only 13.5550 hectares of the landholding of the respondents were acquired by the Government under its Operation Land Transfer (OLT) program under P. D. 27. Relying on the valuation guidelines imposed under P. D. 27 and E. O. 228, LBP and the Department of Agrarian Reform (DAR) appraised the acquired property at P106,935.76, that is, P29,651.54 as the land value and P77,284.22 as incremental land value.[2] The respondents rejected the LBP/DAR valuation, however, so that the Provincial Agrarian Reform Adjudicator (PARAD) of Cagayan conducted summary proceedings for the preliminary determination of just compensation.

On November 23, 1999, the PARAD valued the 13.5550-hectare property at P80,000.00/hectare, or P1,084,400.00 in all for the acquired area.[3]

On January 28, 2000, therefore, LBP commenced this case in the RTC by petition for determination of the just compensation.[4] Upon filing of the respondents' answer,[5] the RTC conducted the pre-trial, wherein was admitted that the acquired property of 13.5550 hectares was placed under P. D. 27 coverage and that LBP computed the just compensation in accordance with the factors authorized by P. D. 27. [6]

The RTC rendered its decision on December 7, 2005,[7] holding that:

It is undisputed, that, the land of Eleuterio Cruz located at Tuao, Cagayan with an area of 13.7320 hectares and covered by TCT No. T-368 was placed under Operation Land Transfer (P.D. 27) by the government.

The land was valued by the government at P2,187.50 per hectare using the formula provided for in paragraph 8 of P.D. 27, and, the valuation as authorized under Section 2 of Executive Order No. 228.

Not satisfied by the valuation made by Land Bank, respondents filed a petition with DARAB to fix the just compensation of the property subject of the operation land transfer. Pursuant to the quasi-judicial powers of DARAB as provided for in Section 50 of R.A. 6657, after conducting a summary hearing, it fixed the value of the land per hectare at P80,000.00. Land Bank disagreed, hence, filed the instant petition for final determination of just compensation before this Special Agrarian Court pursuant to the provisions of Section 56 of R.A. No. 6657.

Let it be stressed, that, DARAB is vested with primary jurisdiction to determine and adjudicate agrarian reform

matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform (Sec. 50, R.A. 6657). As such, the valuation made by the DAR Adjudicator must be given weight and probative value more so, if the valuation was in accordance with the provisions of the applicable laws. The Court discerns no irregularity in the fixing of the value of the land in suit at P80,000.00 per hectare by DARAB.

Now, in determining just compensation, the Regional Trial Court, acting as special agrarian court is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended; thus: Sec. 17. Determination of Just Compensation. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farm workers and by the government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

These factors have been translated into a basic formula in DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994, issued pursuant to the DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

The formula stated in DAR Administrative Order No. 6, as amended, is as follows: $LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

Considering that the capitalized net income (CNI) or the Comparable Sales (CS) nor the market Value per Tax Declaration (MV) were not shown and proven by the respondents, then, the Court shall be guided on the valuation made by DARAB. Although, respondent stated in her judicial narration that the current market value per hectare is P150,000.00 to P200,000.00, it is not controlling as the same is not the market value stated in the tax declaration. No tax declaration was presented or adduced by the respondents.

Will it follow, that, the Court shall adopt the valuation made by Land Bank?

Records reveal that Land Bank's contention is not entirely correct.

Land Bank's contention that the property was acquired for purposes of agrarian reform on October 21, 1972 pursuant to P.D. 27 as certified by Assistant Secretary for Administrative Affairs Benjamin b. Labayen (Exhibit "H"), the time of the effectivity of P.D. 27, ergo just compensation should be based on the value of the property as of that time and not at the time of possession is erroneous. In Office of the President, Malacañang, Manila vs.

Court of Appeals (416 Phil. 473 (2001) citing Land Bank of the Philippines vs. Court of Appeals, 321 SCRA 629; the Supreme Court said, that, the seizure of the landholding did not take place on the date of the effectivity of P.D. 27 but would take effect on the payment of just compensation.

Under the factual circumstances of this case, the agrarian reform process is still incomplete as the just compensation to be paid the respondents has yet to be settled, thus; the determination of just compensation should indeed be determined on the date of payment and not from date of effectivity of P.D. 27.

It would certainly be inequitable to determine just compensation based on the guidelines provided for by P.D. 27 and EO 228 considering the DAR's failure to determine the just compensation for a considerable length of time. That just compensation should indeed be determined in accordance with R.A. 6657 and not PD 27 or EO 228 is especially imperative considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial full and ample.

In accordance with settled principles of administrative law, primary jurisdiction is vested in the DARAB to determine in a preliminary manner the just compensation for the lands taken under the agrarian reform program. In the instant case, it adjudicated as just compensation the amount of P80,000.00 per hectare.

The Court agrees with the findings of DARAB.

Taking into consideration that the land subject of this case is planted with rice two to three times a year, thus, irrigated and considering further that its production per hectare for every harvest is from 80 to 100 cavans and considering finally, that, the market saleable value of the land per hectare is from P150,000.00 to P200,000.00, then, the reasonable value of the land for the purpose of fixing the just compensation is P80,000.00 per hectare.

and disposing as follows:

WHEREFORE, in the light of the foregoing ratiocination, judgment is hereby rendered fixing the amount of P80,000.00 to be the just compensation of the land subject of this case with an area of 13.7320 hectares situated at Lakambini, Tuao, Cagayan and covered by TCT No. T-368 and ordering Land Bank of the Philippines to pay respondent represented by Lorna Cruz-Felipe the amount of P1,098,560.00 in the manner provided by RA 6657 by way of full payment of the said just compensation.

SO DECIDED.

LBP moved for reconsideration,[8] but its motion was denied on January 26, 2006.[9]

Hence, this appeal, wherein LBP submits that the RTC:

xxx GRAVELY ERRED IN ADJUDGING THAT THE TOTAL AREA PLACED UNDER CARP COVERAGE CONSISTS OF 13.7320 HECTARES

xxx GRAVELY ERRED IN FIXING THE JUST COMPENSATION OF THE ACQUIRED PROPERTY AT P80,000.00 PER HECTARE BASED ON SEC. 17 OF RA 6657, NOTWITHSTANDING THE FACT THAT THE SUBJECT PROPERTY WAS ACQUIRED PURSUANT TO OPERATION LAND TRANSFER (OLT) UNDER PD 27

The appeal is partly meritorious.

I

On the first assigned error, we concur with LBP that the total area placed under CARP coverage was only 13.5550 hectares, not 13.7320 hectares. The correct area of 13.5550 hectares was established before the PARAD, who

expressly acknowledged so in his decision.[10] Said area was also expressly stated in the pre-trial order itself.[11]

For their part, the respondents do not contest the correction sought, as their comment bear out. Hence, LBP should pay just compensation to the respondents for only 13.5550 hectares.

II

In fixing the just compensation at P80,000.00/hectare, the RTC gave the following rationalization, to wit:

xxx in determining just compensation, the Regional Trial Court, acting as special agrarian court, is required to consider several factors enumerated in Sec. 17 of RA 6657 as amended, thus: Sec. 17. Determination of just compensation. – In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farm workers and by the government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

xxx

It would certainly be inequitable to determine just compensation based on the guidelines provided for by PD 27 and EO 228 considering the DAR's failure to determine the just compensation for a considerable length of time. The just compensation should indeed be determined in accordance with RA 6657 and not PD 27 or EO 228 is especially imperative considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample.

xxx

Taking into consideration that the land subject of this case is planted with rice two to three times a year, thus, irrigated and considering further that its production per hectare for every harvest is from 80 to 100 cavans and considering finally that the market saleable value of the land per hectare is from P150,000.00 to P200,000.00, then the reasonable value for the land for the purpose of fixing the just compensation is P80,000.00 per hectare.

xxx

LBP insists that the RTC thereby departed from the formula imposed by P. D. 27 and E. O. 228 and contends that such departure was unwarranted and erroneous considering that the property was acquired under the OLT program and, therefore, the just compensation should be computed in accordance with Sec. 2, E. O. 228, to wit:

Sec 2. Henceforth, the valuation of rice and corn land covered by P.D. No. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, series of 1973 and related issuances and regulation of the Department of Agrarian Reform. The average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty Five Pesos (P35.00), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.

LBP avers that the proper formula was $LV = (2.5 \times AGP) \times P35 \times A$, [12] citing *Land Bank of the Philippines v. Court of Appeals*; [13] that in the landowner-tenants production agreement voluntarily entered into between landowner Eleuterio Cruz and the farmer-beneficiaries, [14] the average gross production agreed was 25 cavans of palay/hectare; that applying the formula, the compensation for the acquired area was only P29,651.54, exclusive

of the incremental land value amounting to P77,284.22; that the RTC, citing equitable considerations, did not adhere to the formula but instead fixed the just compensation in accordance with the valuation factors provided in Sec. 17, R. A. 6657; that equity should not control considering that there were laws providing the basis of valuation (i.e., P. D. 27 and E. O. 228), which the RTC was duty-bound to uphold; that the lands were placed under the OLT program by which tenants-farmers became the owners of the lands they tilled as of October 21, 1972, the effectivity of P. D. 27; that, as such, the time of taking should be deemed to be October 21, 1972, rendering the government support price of P35.00/cavan of 50 kilos of palay on October 21, 1972 as the basis of valuation, conformably with the principle that just compensation was the value of the property at the time of the taking; that P. D. 27 and R. A. 6657 operated distinctly from each other, as held in *Sigre v. Court of Appeals*,^[15] holding that P. D. 27, as amended, should continue to operate with respect to rice and corn lands covered by it; that R. A. 6657 did not repeal or supersede P. D. 27; that under *Gabatin v. Land Bank of the Philippines*,^[16] the formula for P. D. 27-acquired lands was reiterated to be $LV = 2.5 \times AGP \times GSP$, computed at time of taking (deemed effected on October 21, 1972), not at rendition of the judgment, with the provision for 6%/per annum interest compensating the landowner compounded annually pursuant to DAR Administrative Order No. 13, Series of 1994; that the exercise of eminent domain in agrarian reform was vastly different from its traditional exercise in other areas; and that the power to determine the just compensation, although within the exclusive domain of the courts, was not without limit.

In contrast, the respondents submit that the findings of the RTC were fully warranted under the law and the facts; that the RTC correctly applied R. A. 6657 because the affected lands involved rice and corn; and that the pertinent provision is Sec. 7, R. A. 6657, which states thus:

Sec. 7. PRIORITIES – The DAR, in coordination with the PARC shall plan and program the acquisition and distribution of all agricultural land through a period of ten (10) years from the effectivity of this act. Lands, shall be acquired and distributed as follows:

Phase one: Rice and corn land under PD 27, all idle and or abandoned lands, all private lands offered by the owners for Agrarian Reform and all the other lands owned by the government devoted to or suitable for agriculture, which shall be acquired and distributed immediately upon the effectivity of this act, with implementation to be completed within a period of not more than four (4) years.

Just compensation means the value of the property at the time of the taking. It means a fair and full equivalent for the loss sustained. All the facts as to the condition of the property and its surroundings, its improvements and capabilities, are considered. ^[17]

The authority to determine the just compensation for the taking of the property is essentially judicial. As explained in the leading case of *Export Processing Zone Authority v. Judge Dulay*:^[18]

The method of ascertaining just compensation under the aforecited decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render this Court inutile in a matter which under the Constitution is reserved to it for final determination.

Thus, although in an expropriation proceeding the court technically would still have the power to determine the just compensation for the property, following the applicable decrees, its task would be relegated to simply stating the lower value of the property as declared either by the owner or the assessor. As a necessary consequence, it would be useless for the court to appoint commissioners under Rule 67 of the Rules of Court. Moreover, the need to satisfy the due process clause in the taking of private property is seemingly fulfilled since it cannot be said that a judicial proceeding was not had before the actual taking. However, the strict application of the decrees during the proceedings would be nothing short of a mere formality or charade as the court has only to choose between the valuation of the owner and that of the assessor, and its choice is always

limited to the lower of the two. The court cannot exercise its discretion or independence in determining what is just or fair. Even a grade school pupil could substitute for the judge insofar as the determination of constitutional just compensation is concerned.

xxx

The determination of "just compensation" in eminent domain cases is a judicial function. The executive department or the legislature may make the initial determinations but when a party claims a violation of the guarantee in the Bill of Rights that private property may not be taken for public use without just compensation, no statute, decree, or executive order can mandate that its own determination shall prevail over the court's findings. Much less can the courts be precluded from looking into the "just-ness" of the decreed compensation.

Even LBP unavoidably concedes that the determination of the just compensation is the exclusive domain of the courts.[19] Indeed, that is true. Affirming the exclusivity, the Supreme Court also declared in *Republic v. Intermediate Appellate Court*[20] that executive and legislative acts fixing just compensation should by no means be conclusive or binding upon the court, but rather, at the very least, merely guiding principles. Thus, in *Sigre v. Court of Appeals*,[21] the Supreme Court has held that the determination of the just compensation under the formula stated in P.D. 27 and Sec. 16 (d), R. A. 6657, is not final or conclusive, thus:

The objection that P.D. 27 is unconstitutional as it sets limitations on the judicial prerogative of determining just compensation is bereft of merit. P.D. 27 provides: For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to this Decree, the value of the land shall be equivalent to two and one half (2 ½) times the average harvest of three normal crop years immediately preceding the promulgation of this Decree;

E.O. 228 supplemented such provision, viz.:

SEC. 2. Henceforth, the valuation of rice and corn lands covered by P.D. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, series of 1973 and related issuances and regulation of the Department of Agrarian Reform. The average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty Five Pesos (P35.00), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.

The determination of just compensation under P.D. No. 27, like in Section 16 (d) of R.A. 6657 or the CARP Law, is not final or conclusive. This is evident from the succeeding paragraph of Section 2 of E.O. 228:

xxx In the event of dispute with the landowner regarding the amount of lease rental paid by the farmer beneficiary, the Department of Agrarian Reform and the Barangay Committee on Land Production concerned shall resolve the dispute within thirty (30) days from its submission pursuant to Department of Agrarian Reform Memorandum Circular No. 26, series of 1973, and other pertinent issuances. In the event a party questions in court the resolution of the dispute, the landowner's compensation shall still be processed for payment and the proceeds shall be held in trust by the Trust Department of the Land Bank in accordance with the provisions of Section 5 hereof, pending the resolution of the dispute before the court.

Clearly therefrom, unless both the landowner and the tenant-farmer accept the valuation of the property by the Barrio Committee on Land Production and the DAR, the parties may bring the dispute to court in order to determine the appropriate amount of compensation, a task unmistakably within the prerogative of the court.

What is the basis for fixing the just compensation of the landholding of the respondents? We hold that the judicial

determination of the just compensation is not restricted by the formula under P. D. 27 and E. O. 228 despite the respondents' landholding being statutorily taken in 1972. Conformably with the nature of the determination of the just compensation as essentially judicial, any valuation made in accordance with the formula under P. D. 27 and E. O. 228 should be regarded only as an initial valuation that is neither conclusive nor controlling; else, LBP or another agency (like DAR) might impermissibly usurp an essentially judicial function. With the formula being only an additional guide, the RTC can rely upon the other factors enumerated in Sec. 17, R. A. 6657 in order to determine just compensation. Said provision states:

Sec.17. Determination of Just Compensation. – In determining the just compensation, the cost of the acquisition of the land, the current value of the properties, its nature, actual uses and income, the sworn valuation of the owner, the tax declaration and the assessment made by the government assessors shall be considered. The social and economic benefits contributed by the farmers and the farm wherein and by the government financing institution on the said land should be considered as additional factors to determine its valuation.

It is important to note that the RTC, to properly discharge its jurisdiction on the matter, should be afforded all the reasonable factors for the purpose of ascertaining what would be the just compensation. The RTC regarded the determination of the just compensation by the PARAD as well-founded and regularly made.[22] Absent any reason to challenge the RTC determination except upon those already dealt with and disposed of herein, therefore, we should uphold the determination made by the RTC of the just compensation.

WHEREFORE, the decision dated December 7, 2005 is AFFIRMED.

Costs of suit shall be paid by the petitioner.

SO ORDERED.

Villarama, Jr., (Chairman), and Librea-Leagogo, JJ., concur.

[1] Agrarian Case No. 0058 entitled Land Bank of the Philippines v. Heirs of Eleuterio Cruz, represented by Lorna Cruz.

[2] Annex E, petition (claims processing form).

[3] Annex F, petition (PARAD decision)

[4] Annex G, petition.

[5] Annex H, petition.

[6] Annex I, petition (pre-trial order).

[7] Annex A, petition.

[8] Annex C, petition.

[9] Annex B, petition.

[10] Annex F, petition.

[11] Annex I, petition.

[12] LV represents Land Value; AGP means Average Gross Production/hectare; P35.00 is the Government Support Price for a cavan of palay in 1972; and A equals the total area of the land.

[13] 321 SCRA 629 (December 29, 1999).

[14] Exhibit G of LBP in the proceedings below.

[15] 387 SCRA 15 (August 8, 2002).

[16] 444 SCRA 176 (November 25, 2004).

[17] Export Processing Zone Authority v. Judge Dulay, 149 SCRA 305 (April 29, 1987); see also National Power Corporation v. Spouses Guterrez and Malit, 193 SCRA 1 (January 18, 1991) - "Just compensation has always been understood to be the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of the expropriation."

[18] Export Processing Zone Authority v. Judge Dulay, 149 SCRA 305 (April 29, 1987).

[19] Petition, p. 24; at rollo, p. 32.

[20] 159 SCRA 165.

[21] 387 SCRA 15, 28-29 (August 8, 2002).

[22] Annex A (Decision, pp. 5-6), petition.

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