

**REPUBLIC OF THE PHILIPPINES (REPRESENTED BY THE LAND
TENURE ADMINISTRATION, SUBSTITUTED BY THE LAND
AUTHORITY), PLAINTIFF AND APPELLANT, VS. MARIANO F.
LICHAUCO, ET AL., DEFENDA...**

G.R. No. L-21436. August 18, 1972

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

The Republic of the Philippines, by authority of Republic Act No. 1400, represented by the Land Tenure Administration, filed on December 2, 1957, in the Court of First Instance of Pangasinan a complaint against the defendants[1] for the expropriation of the lands of the "Hacienda El Porvenir", having an area of 1,352.84245 hectares, situated in the municipalities of Tayug, Natividad, San Quintin and Sta. Maria, province of Pangasinan. In the complaint it was alleged, among other things, that the aggregate assessed value of the property was P434,440.00, and that the continuous agrarian conflicts between defendants and their tenants could be solved only through the purchase of said property by the government. Defendants, in their amended motion to dismiss, sought the dismissal of the complaint, alleging that the hacienda was no longer a co-ownership but had been partitioned among the several heirs of Crisanto Lichauco, and that Republic Act No. 1400 was unconstitutional.

On March 23, 1961, the plaintiff and the defendants filed in court an "Agreement and Joint Motion,[2] as follows:

"COMES NOW the plaintiff, represented by the Land Tenure Administration, and the defendants Mariano F. Lichauco, Macario M. H. Lichauco, represented by Romeo Lichauco as Administrator and Guardian ad litem, Renato P. Lichauco, Francisco and Jose Castillo (minors) represented by their mother and legal guardian, Olga Gonzales Castillo, and Trinidad Castillo; Amanda L. De la Cruz and Jose Manuel Lichauco, assisted by their respective counsels, and to this Honorable Court most respectfully state:

"1. The defendant-co-owners do hereby agree, as evidenced by their signature affixed hereto, to the expropriation of their property known as the "HDA. EL PORVENIR" described in Pars. II and III of the complaint, comprising the southern one-half (1/2) of that parcel of agricultural land covered by Original Certificate of Title No. 7 of the land records of the Province of Pangasinan, situated in the municipalities of Tayug, Natividad, San Quintin and Sta. Maria;

"2. That the defendant-co-owners have agreed to the condemnation of their property in view of the conformity of the plaintiff to grant them the right of retention of the areas stated below and further reflected on the sketch plan hereto attached and made an integral part hereof as Annex "A"; and the defendant-co-owners who are the heirs of the property have among themselves agreed and have adjudicated the retained areas corresponding to the persons whose names appear below:

Lot 3-Amanda de la Cruz

132.7732 Has. more

or less

Lot 4-Renato Lichauco

144.1449 Has. more

or less

Lot 8-Amanda de la Cruz

6.8980 Has. more

or less

Lot 9-Amanda de la Cruz

(Mariano)

5.3164 Has. more

or less

Lot 10-Amanda de la Cruz

(Macario)

4.8811 Has. more

or less

Lot 12-Amanda de la Cruz

(Renato)

5.8811 Has. more

or less

Lot 2-Trinidad Castillo

(portion)

51.3100 Has. more

or less

Lot 11-Trinidad Castillo &

minors Francisco

& Jose Castillo

6.7955 Has. more

or less

Lot 13-Jose Manuel Lichauco

5.5375 Has. more

or less

TOTAL 362.6700 Has. more or less

leaving a total area of approximately 990.1725 hectares subject to expropriation.

“3. That the plaintiff and the defendant-co-owners have agreed to survey and segregate the retained areas by the surveyors of the Land Tenure Administration, with the assistance of the defendant-co-owners or their authorized representatives, in order to pinpoint and delineate more or less the boundaries on the ground of the retained areas, at the expense of the Land Tenure Administration;

“4. That the defendant-co-owners hereby waive their right to contest the expropriation by the Republic of the Philippines of the property mentioned in Pars. II and III of the complaint, excluding the portions to be retained by them, as to which the plaintiff agrees to dismiss the expropriation proceedings in the above-mentioned case;

“5. That while it is true that these expropriation proceedings are based on Original Certificate of Title No. 7, one half (1/2) of which is more or less 1,352.8425 hectares, the survey on the ground as per G.L.R.O. No. 1 shows an increase in area of about 144.0681 hectares which is still subject to judicial determination in G.L.R.O. Case No. 1 and in the event the difference in area is adjusted and/or adjudicated in favor of the defendant-co-owners, the plaintiff shall have the option to buy the said portions in question as adjudicated and to pay the corresponding price as in this expropriation case. However, should there be an official devaluation of the Philippine Currency, the price of the disputed area, as well as the balance of the price of the portion of land expropriated herein, shall be computed in accordance with the value of the currency at the time of the Court's adjudication in each case.

“6. That the defendant-co-owners have agreed that payments shall be made to them separately. In regard to liens and encumbrances, payment shall be made to the creditor banks out of the provisional value to be paid to each defendant-co-owners by the Land Tenure Administration with the Court which shall be deducted from the corresponding amounts due each of the defendant-co-owners who are the debtors. That payment to each co-owner by each of them, including that portion sold by Mariano Lichauco to the late Maria Vda. de Gonzales and now owned by her heirs, Trinidad Castillo and the minors Francisco and Jose Castillo, and also that

portion sold directly to Trinidad Castillo as follows:

‘Area sold by Mariano Lichauco to the late Maria Lichauco Vda. de Gonzales — ONE HUNDRED SIXTY SIX THOUSAND ONE HUNDRED EIGHTY SQUARE METERS (166,180) more or less. Dated July 29, 1954. Francisco de la Fuente, Notary Public, City of Manila, Doc. No. 39; Page No. 89; Book No. II; Series of 1954.”

‘NINETY THOUSAND SIX HUNDRED SQUARE METERS (90,600) more or less. Dated April 28, 1955; City of Manila; SERVILLANO DE LA CRUZ, Notary Public; Doc. No. 79; Page No. 94, Book No. II; Series of 1955.”

‘Sold by Mariano Lichauco to Trinidad G. Castillo TWENTY THOUSAND EIGHT HUNDRED SQUARE METERS (20,800) more or less. Dated Dec. 17, 1956. Notary Public Jose Aligayan, City of Manila.”

From the amounts due Mariano F. Lichauco and Macario M.H. Lichauco, represented by Romeo Lichauco as administrator, the amounts of P5,000.00 and P32,800.00, respectively corresponding to their personal accounts with Amanda L. de la Cruz shall be paid directly to the latter;

“7. That the provisional value corresponding to ten (10) hectares of first class land due each of the defendant-co-owners, Macario M. H. Lichauco, Mariano Lichauco and Jose Manuel Lichauco, and the value corresponding to seven (7) hectares of first class land due to Francisco and Jose Castillo shall be deducted from the share of each of the said defendants, as well as from all subsequent payments corresponding to said area, and the said deductions shall be paid directly to Amanda de la Cruz who shall deposit same in a bank so as to earn interest, under the name of each depositor separately in trust for the remaining land owners to answer for the liability of the said defendant-co-owners in the event G.L.R.O. Case No. 1 should be decided adversely against them; otherwise all such amounts deposited with Amanda L. de la Cruz shall be paid or delivered by her to the said defendants, Macario, Mariano, Jose Manuel Lichauco and Francisco and Jose Castillo immediately after the termination of such case; provided, however, that no payment or delivery of the said amounts shall be made, until and unless said G.L.R.O. Case No. 1 and its related cases shall have been terminated; and provided further that should the liability of each of the defendant co-owners exceed the value of said ten hectares, all of them shall be liable for their proportionate share of said excess, but in no case shall the liability of Amanda de la Cruz, Renato P. Lichauco, the heirs of Maria L. Vda. de Gonzales and all other defendant-co-owners shall exceed their proportionate shares should G.L.R.O. Case No. 1 be decided adversely against them, and likewise the liability of Trinidad G. Castillo shall not exceed her proportionate share as stipulated in the supplemental agreement entered into between Olga Gonzales de Castillo and Trinidad Gonzales de Castillo dated January 18, 1957 and notarized by Notary Public Stella D. Dadivas on July 23, 1960;

“8. That the defendant-co-owners shall be paid according to the areas they have agreed to sell under O.C.T. No. 7 as well as for the disputed area, should the same be adjudicated to them, estimated as follows:

Area (O.C.T. No. 7)

Provisional

Disputed

Value

Excess

Value

Amanda L. de la Cruz

80.4861 Has.

P80,486.15

24.01135 Has.

Mariano Lichauco

197.71575 Has.

197,715.75

24.01135 Has.

Jose M. Lichauco

212.11355 Has.

212,113.55

24.01135 Has.

Heirs of M. H. Lichauco

220.59265 Has

220,592.65

24.01135 Has.

Renato Lichauco

84.13815 Has.

84,138.15

24.01135 Has.

Trinidad Castillo

79.07462 Has.

79,074.62

8.00378 Has.

Francisco & Jose Castillo

116.05163 Has.

116,051.63

16.00757 Has.

990.17250 Has.

P990,172.50

144.06810 Has.

In the event that G.L.R.O. Case No. 1 is decided against the herein owners and in favor of the adverse claimants regarding the total disputed excess area of 144.06810 and any of the herein co-owners is found to have included in his lot more than his share of the disputed excess area so that he has to deliver more than his said share, the other co-owners shall proportionately pay him the value of the area in excess of his said share.

"9. That upon the issuance of the order of condemnation the Land Tenure Administration shall deposit with the Court the amount of P990,172.50, which shall be considered as the provisional value of the expropriated portion of the "Hda. El Porvenir", to be paid to the defendant-co-owners and their creditors separately in the manner and proportion herein stipulated; provided that this agreed provisional value shall in no way be taken or understood as indicative or determinative of the actual reasonable value which the plaintiff should pay to the defendant-co-owners for the land subject of expropriation in this case which shall not be less than the provisional value of P990,172.50 as hereinbefore stated; provided that any of the parties hereto may appeal to the higher Courts from said determination if he should so desire;

"10. That the final basis of condemnation and payment shall be the area by actual survey by the Land Tenure Administration of the land to be expropriated by and transferred to the said Office, after deducting the retentions by the defendant-co-owners as hereinabove specified; and the Land Tenure Administration shall give priority to the survey to be conducted;

"11. That all payments by the Land Tenure Administration for the expropriated portion of the "Hda. El Porvenir" shall be strictly on cash basis.

"WHEREFORE, it is respectfully prayed that this Honorable Court:

"1. Issue the corresponding order of condemnation and fix a provisional value of P990,172.50, ordering the deposit thereof with the Court within a reasonable time from the issuance of said order of condemnation and forthwith the payment by the Clerk of Court of the same separately and proportionately to the defendants-co-owners and to the banks and other parties as stated hereinabove; and the issuance of the corresponding writ of possession in favor of the plaintiff upon making of said deposit;

"2. Appoint a committee to receive evidence on the fair and reasonable compensation which the Government; represented by the plaintiff, shall pay to the corresponding defendant-co-owners and which should not be less than the provisional value of P990,172.50 as hereinbefore stated; provided any of the parties hereto may appeal to the higher courts from said determination if he should so desire;

"3. Order the dismissal of the expropriation case as against the area retained by the defendant-co-owners specified hereinabove;

"4. Order the priority survey of the hacienda by and at the expense of the Land Tenure Administration, with

the assistance of the defendant-co-owners, to segregate the areas retained by the defendant-co-owners;

"5. Provide by order for such other matters as will best insure the full implementation of and compliance with the above terms and conditions agreed to by the parties.

"Manila for Lingayen, Pangasinan, March 23, 1961."

Acting on the foregoing Agreement and Joint Motion, the Court of First Instance of Pangasinan issued, on March 23, 1961, the order of condemnation of the property sought to be expropriated and set the provisional value of the property at P990,172.50.

Inasmuch as the defendants were not agreeable to the price of P1,787,048.80, or an average of P1,945.36 per hectare offered by the plaintiff in its memorandum-report dated June 15, 1961 (Exhibit A), the court created a Committee on Appraisal and appointed as members thereof Atty. Rodolfo E. Vinluan, to represent the Court; Mr. Alfredo Balingao of Tayug, Pangasinan, to represent the plaintiff; and Mr. Hermenegildo Acosta, also of Tayug, to represent the defendants.

Upon motion of the plaintiff, after it had deposited with the clerk of court the provisional value of the property, the court issued, on July 3, 1961, the writ of possession in favor of the plaintiff, and an alias writ on August 30, 1961. This writ was served on September 10, 1961, and on said date plaintiff was placed in possession of the property.

On November 29, 1961 Commissioners Rodolfo E. Vinluan and Hermenegildo Acosta submitted the majority report of the Committee on Appraisal. The other commissioner submitted on December 2, 1961 the minority report. The recommended fair market values of the different kinds of lands in the two reports were as follows:

Recommended value per hectare as per-

Kind of Land

Majority Report

Minority Report

First class irrigated

riceland

P5,500.00

P4,500.00

Lots 7-D & 7-E

4,000.00

Lots 7-A, 7-B &

7-C

3,500

Second class irrigated

riceland

4,500.00

Third class irrigated

riceland

4,000.00

3,000.00

First class sugar cane

land

5,500.00

Lot 7-E (-AM)

4,500.00

Fourth class sugar cane

land

3,000.00

Lots 7-D(A-8) &

7-E(A-Z)

3,500.00

Lots 6, 7-D, 7-E

3,500.00

Lots 5, 7-A, 7-B, 7-C

3,000.00

First class upland

4,000.00

Second class upland

3,500.00

Lots 7-A, 7-B & 7-C

2,500.00

Rolling lands

2,000.00

Lots 7-A, 7-B & 7-C

1,500.00

Residential land

1.00 per

1.00 per

sq. m.

sq. m.

On December 8, 1961, defendants, Jose Manuel Lichauco, Trinidad Gonzales Castillo, and minors Francisco and Jose Castillo, excepted to the majority report insofar as it affected their lots for which they claimed a price higher than what was recommended.

Plaintiff, on the other hand, presented its "Consolidated Objections to the Majority and Minority Reports of the Commissioners," dated December 14, 1961, upon the grounds that the reports were not in accordance with the provisions of Section 8, Rule 69 of the Rules of Court; that the conclusions and findings made by the commissioners were contrary to law, and not supported by the evidence on the record; and that the prices recommended therein did not represent the "market value" or "just compensation" of the property expropriated.

Acting on a joint agreement and motion, dated January 2, 1962, the Court ordered the plaintiff to deposit P500,000 as additional provisional value of the property, with the understanding that plaintiff would be relieved from paying 6% interest on said amount of P500,000 from the date of the delivery of possession of the expropriated property and that the then standing crops would belong to the plaintiff.

After hearing on the reports, the Court rendered its decision on October 26, 1962, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING, decision is hereby rendered confirming the order of this Court, dated March 23, 1961, decreeing the condemnation of the properties of the defendants covered by certificate of title No. 7 of the Land Records of the Province of Pangasinan to the extent of 990 hectares, 17 ares and 25 centares situated in the municipalities of Tayug, Sta. Maria, San Quintin, and Natividad, province of Pangasinan; declaring the plaintiff to be the owner of said portion of 990 hectares, 17 ares, and 25 centares upon previous payment to the defendants the following sums:

To:

Amanda L. de la Cruz

P243,211.93

Mariano Lichauco

812,711.09

Jose M. Lichauco

630,906.55

Heirs of M.H. Lichauco

864,015.40

Heirs of Renato Lichauco

233,399.40

Trinidad, Francisco and

Jose Castillo

685,135.30

and to pay an interest of 6% per annum on each and every sum indicated above to the respective defendants from August 30, 1962, up to the time the whole amounts are paid; to pay 6% interest a year from September 10, 1961 to August 30, 1962 on the respective amounts mentioned in paragraph 1, page 21 of the decision to each of the defendants; and ordering the plaintiff to exclude the retained areas of the defendants at the extremities of each of the respective lots of the defendants; without special pronouncement as to costs."

From this decision, plaintiff appealed, by reason of the amount involved, directly to this Court.

Defendants Jose Manuel Lichauco, Trinidad Gonzales Castillo, and Francisco and Jose Castillo moved for the reconsideration of the decision in connection with the areas possessed by them, with (1) respect to the valuation and (2) the areas expropriated under their different classifications. In its order dated November 19, 1962, the court denied the motion for reconsideration with respect to the value of the land, and in its order dated February 9, 1963, the court amended the decision, such that:

"In the dispositive part, page 23, decision, delete the last two lines under "To" and insert the following:

"Trinidad Castillo P286,034.30

Francisco and Jose

Castillo 398,460.74."

From this order dated February 9, 1963, as well as from the order dated November 19, 1962 and the decision of October 26, 1962, defendants Trinidad Gonzales, Francisco and Jose Castillo, and Jose M. Lichauco appealed directly to this Court.

Another motion for reconsideration filed by defendant Amanda L. de la Cruz, asking an additional amount of P4,500.00 as value of a sugar cane mill, was denied on January 17, 1963.

On February 22, 1964 plaintiff moved that the Land Tenure Administration be substituted by the Land Authority.

A motion, dated October 4, 1965 for an additional advance payment of P490,172.50, filed by counsel for defendants with the conformity of plaintiff, was granted by this Court in its resolution dated October 12, 1965. A motion was filed by Atty. Rafael Dinglasan, counsel for defendants-appellants Jose Manuel Lichauco, Trinidad Gonzales Castillo and Francisco and Jose Castillo, praying that said amount of P490,172.50 be ordered paid separately to each of the defendants, pro-rata, based on the respective areas of the properties they have agreed to sell to the government, and that from the shares of his clients, defendants-appellees Jose M. Lichauco, Trinidad G. Castillo, Francisco and Jose Castillo, his 5% attorney's fees be deducted and paid to him, which motion was granted by this Court in its resolution of April 20, 1966.

By resolution of June 15, 1970, and of June 23, 1970, this Court, upon motions by counsel for the defendants-appellees, with the written conformity of the Governor of the Land Authority, ordered the Land Authority to give advanced payment in the amount of P500.00 per hectare of the expropriated lands belonging to the defendants-appellees in the manner agreed upon by them. On July 8, 1970 this Court issued a supplemental resolution directing that the additional advanced payment of P500.00 per hectare be paid separately to each of the defendants-appellees based on the respective areas possessed by each of them pursuant to the Agreement and Joint Motion of the parties dated March 23, 1961, and that of the amount to be paid each to defendants-appellees Jose M. Lichauco, Trinidad G. Castillo, Francisco Castillo and Jose Castillo the attorney's fee of Atty. Rafael Dinglasan, equivalent to 5% of the amount paid to each of them, be paid to said attorney as per the contract of professional services entered into between defendants-appellees and the attorney. Pursuant to the resolutions of this Court of June 15 and June 23, 1970, and of July 8, 1970, the sum of P495,086.20 was released by the

Secretary of Finance in April 1971 and paid by the Land Authority to the defendants-appellees.[3]

The issues raised by plaintiff-appellant will first be discussed, followed by those raised by defendants-appellants.

Plaintiff-appellant, in its brief, submits that the trial court committed ten errors in its decision, as follows:

1. In considering as a guide in endeavoring to fix the reasonable and fair market value of the lands now under expropriation the case of "Municipality of Bustos vs. Natividad Santos, et al., CA-G.R. No. 22547-R; the case of "Commonwealth of the Philippines vs. Pedro de Guzman," Civil Case No. 8425 of the Court of First Instance of Pangasinan, Lingayen Branch, and CA-G.R. No. 20358-R; and the case of "Republic of the Philippines vs. Irene R. Ombac," Civil Case No. 13555 of the same Court of First Instance of Pangasinan, without basis in fact and in law and contrary to existing jurisprudence.
2. In concurring with the findings of the majority report of the Commissioners of Appraisal as to the classifications of the lots involved in this expropriation which is not sustained by the evidence on record and which is contrary to law.
3. In finding and fixing the reasonable and fair market value of the lands under expropriation as — P5,500.00 per hectare of 1st class irrigated ricelands; P4,500.00 per hectare of 2nd class irrigated ricelands; P4,000.00 per hectare of 3rd class irrigated ricelands; P4,500.00 per hectare of 1st class sugarcane land; P3,000.00 per hectare of 4th class sugarcane land; P4,000.00 per hectare of 1st class upland; P3,500.00 per hectare of 2nd class upland; P1,500.00 per hectare of rolling lands and P1.00 per square meter of residential land thus giving a total just compensation to the landowners for the 990 hectares, 17 ares and 25 centares of land expropriated the amount of P4,957,601.86 and not P1,980,345.00 which is the fair market value of the property expropriated and should be its "just compensation."
4. In not finding that the valuation made by the defendant landowners of their property as demanded by them in their "Motion to Dismiss" (Answer) is an admission and evidence of the highest order so much so that their demand of P4,000.00 per hectare in their answer, should set the ceiling price for the just compensation to be awarded them.
5. In considering the property under expropriation as subdivided among the heirs and thus made a lot by lot classification and valuation of the property without considering the said property as one whole mass owned by several co-owners, without basis in law and in contravention of accepted principles of valuation.
6. In not providing in the decision, as stipulated by the parties in the "Agreement and Joint Motion" that in case an increase in area in G.L.R.O. No. 1 is adjusted and/or adjudicated in favor of the defendant co-owners, "the plaintiff shall have the option to buy the said portions in question as adjudicated and to pay the corresponding price as in this expropriation case."
7. In not deducting from the total valuation of the property the value for two parcels of land, namely; one hectare for the school site at barrio Saleng and 1.8 hectare for the school site at barrio C. Lichauco, which were previously donated by the landowners to the municipal government of Tayug, Pangasinan.
8. In finding and holding that the plaintiff does not have the right and option to choose where the retained areas should be taken from the whole property, contrary to established jurisprudence.
9. In not providing that the amount of P500,000.00 additional provisional value should be deducted from the total balance due the defendants, and should not earn legal interest from the date of plaintiffs possession of the property, in accordance with the motion of the parties and the order of the trial court dated January 3, 1962.
10. In not providing in the decision that payment be made to creditor banks, as stipulated by the parties in the "Agreement and Joint Motion," in order that all liens and encumbrances be cancelled, so that title to the property be transferred to the government free and clear thereof.

1. Regarding the first error assigned, plaintiff-contends that the trial court erred in considering as a guide in fixing the fair market value of the lands under expropriation the case of *Municipality of Bustos vs. Natividad Santos, et al.*, CA-G.R. No. 22547-R; Civil Case No. 8425 of the Court of First Instance of Pangasinan, and CA-G.R. No. 20358-R; and *Republic of the Philippines vs. Irene R. Ombac*, Civil Case No. 13555 also of the Court of First Instance of Pangasinan, upon the grounds that the lands expropriated in said cases, respectively, being: a small parcel of land with an area of 4,626.6 square meters located in Barrio Bonga Mayor, Bustos, Bulacan; a parcel of land situated in Barrio Balbalino, San Carlos, Pangasinan, with an area of 98,970 square meters; and two parcels of land situated in the poblacion of Bugallon, Pangasinan — those lands being situated in places different from those where the lands included in the Hacienda El Porvenir are located, so that their values can not be considered evidentiary facts of the value of the lands comprised in the Hacienda El Porvenir.

On the other hand, defendants-appellees Maria Lichauco and Amanda de la Cruz contend that the trial court did not make as basis, much less as the sole basis, the cases mentioned, but considered them simply as a guide.[4]

We find plaintiff-appellant's first assigned error untenable. We gather, upon reading, the decision, that the trial court did not base the market value of the Hacienda El Porvenir on the prices of the land expropriated in the case mentioned by the plaintiff-appellant. The trial court simply considered the principles enunciated in those cases as guides in fixing the market value of the lands sought to be expropriated in the present case. The principles regarding evaluation enunciated in the *Bustos* case, namely: that the reasonable market value of a property is what it would bring when offered for sale by one who desires but is not obliged to sell, and is purchased by one who is under no necessity of having it; that the value of the property should be fixed as of the date of proceedings; and that the sales of properties in the same locality are creditable in determining the market value of lots in that vicinity, can not be said to be erroneous and without basis in law; as claimed by plaintiff-appellant, because said principles are taken from the decisions of this Court in the cases of *Manila Railroad Co. vs. Caligsahan*, 40 Phil. 326; and *Manila Railroad Co. vs. Fabie*, 17 Phil. 206. The trial court, therefore, did not err when it relied on the principles enunciated in those cases.

2. Plaintiff-appellant discusses jointly the second and third errors assigned. Regarding the second error assigned, plaintiff-appellant contends that the trial court erred in concurring with the majority report on the classification of the lots involved; and regarding the third error assigned, plaintiff-appellant contends that the trial court erred in fixing the fair market value of the different classes of land, giving a total compensation of P4,957,601.86, instead of P1,980,345.00.

Regarding lot 7-E, owned by defendant-appellee Amanda L. de la Cruz, plaintiff-appellant claims that the upgrading to second class of the irrigated land, which was classified by Mr. Juvenal Raguini, Real Estate Appraiser of the Land Tenure Administration, as third class, was not supported by the evidence; that the upgrading and reclassification of the 20.1478 hectares classified as hill by Raguini to fourth class sugarland, and the 21.2260 hectares classified as first class upland by Raguini to first class sugar land, was an error, upon the ground that those lands did not have sugar quotas; that the portion classified by Raguini as creeks and canals was erroneously classified by the court as first and second class riceland, because creeks and canals did not produce crops and should not have been given any valuation for purposes of determining the fair market value.[5]

Defendants-appellees Maria Lichauco and Amanda de la Cruz, on the contrary, contend that the Commissioners on Appraisal were unanimous in the reclassification of the area marked Exhibit 6-AM in Exhibit A-1 as first class sugar land, and the areas marked Exhibits A-2 and A-8 in Exhibit A-1 as fourth class sugar land as could be seen in the Minority Report[6] and in the Majority Report;[7] that even the government expert Raguini testified that the area marked Exhibit 6-AM of Lot 7-E was more adopted to sugar cane such that he would classify it as first class sugar cane land;[8] that by soil composition and the use to which they are put, the areas marked Exh. 6-AM and

Exhs. A-2 and A-8 were actually first class and fourth class sugar cane lands and actually planted to sugar cane; that during the ocular inspection by the Commissioners, they found that the creek itself was planted to palay; that the river bed mentioned by the plaintiff-appellant was an abandoned river bed, actually a dry land planted to sugar cane, peanuts, mongo and others; that the roads were dirt roads, at the same level as the residential lots and equally suitable for residential purposes; that the valuation of the different kinds of lands was based on the evidence presented; and that neither in the Commissioners' report nor in the decision of the trial court can it be shown that the classification and valuation of the Hacienda El Porvenir was not made at the proper time according to law.[9]

Regarding the property owned by Jose M. Lichauco, plaintiff-appellant also contends that the upgrading to first class irrigated land of the 1.3861 hectares in Lot 1, which was classified by the government expert as creeks and canals, was erroneous because creeks and canals can not be used for production; that the reclassification to first class upland of the 48.2220 hectares of Lot 7-B which was classified by the government expert as second class upland, and to rolling land of 29.6741 which was classified as hill by the said expert, was without evidentiary support.[10]

On the other hand, defendants-appellees Jose M. Lichauco, Trinidad G. Castillo and Francisco and Jose Castillo contend that creeks and canals have beds and form part of the irrigation system that give the land its status as first class irrigated land; consequently, they should have the same classification as the land in which they are found; that it is not true that said creeks and canals are not used for production, because it is a fact that they increase the yield of the land.

Anent plaintiff-appellant's contention that the classification by the government expert of the hill should have been maintained, defendants-appellees Jose M. Lichauco, Trinidad Castillo and Francisco and Jose Castillo contend that the classification made by the government expert was, besides being incompetent, not authorized by the court; that there was testimonial evidence showing that the portions classified as hill are really low elevated portions.[11]

Regarding Lot 6, owned by the heirs of Macario H. Lichauco, plaintiff-appellant contends that the upgrading by the trial court to first class irrigated land of the portions classified by the government expert as second class (47.8669 hectares) and third class (47.6852 hectares) was not supported by the evidence; that the upgrading to residential land of the portion (9.0786 hectares) classified by the government expert as roads, as well as that portion (2.4380 hectares) classified as creeks and canals to first class irrigated, was not reasonable; and that the roads and canals as public easements should not be paid for.[12]

Counsels for defendants-appellees Mariano F. Lichauco and the heirs of Macario H. Lichauco contends, in connection with Lot 6 owned by the Heirs of Macario H. Lichauco, that the trial court did not in fact upgrade the creeks and canals, but only recognize their inherent quality when they were classified as first class irrigated land; that the feeder roads (which do not include the Tayug-San Quintin provincial road) are privately owned, that they form part of the private property of defendants-appellees and were considered by both parties as portions of the total area under expropriation; that plaintiff's counsel did not interpose any objection, during the field hearings and ocular inspections conducted by the Commissioners, to the upgrading of portions of Lot 6; that the trial court classified Lot 6 on the basis of the findings and recommendations of the Committee on Appraisal, and plaintiff-appellant did not make any objection, neither in its pleadings nor in its consolidated objection to the majority and minority reports, to the reclassification of the portions marked on Exhibit A-1 as 1-RM, 3-RM, 6-RM, 7-RM, 9-RM, 10-RM, 16-RM and 17-RM.[13]

But plaintiff-appellant urges that even if the irrigation canals might be considered registrable, they still form part

of the amenities already included in the valuation of the property and that without them the valuation of the property should have been lower; that the 17 hectares occupied by roads refer only to provincial and feeder roads excluding the hacienda roads.[14]

Regarding Lot 7-D, property of the heirs of Renato Lichauco, plaintiff-appellant contends that the reclassification of the portions classified by the government expert as creeks and canals to first, second and third class irrigated lands; the upgrading of the roads to residential land, and of the river bed to fourth class sugar land, was not justifiable.[15]

Regarding the portions belonging to Trinidad Castillo, Francisco and Jose Castillo, plaintiff-appellant contends that the evidence did not support the upgrading of the second class irrigated ricelands and creeks and canals in Lot 2 to first class irrigated land; that what was stated in the order of the court of February 9, 1963 as referring to Lot 5 should refer to Lot 7-C, and what was stated to refer to Lot 7-C really referred to Lot 5; that regarding Lot 7-C, the upgrading of the 3rd class irrigated land as well as the creeks and canals to first class irrigated land; the upgrading of the 9.2771 hectares of second class upland together with the .5823 hectares of roads to first class upland; the upgrading of the hill with an area of 24.2374 hectares to second class upland; as well as the upgrading of the 23.6284 hectares of river bed as rolling land, were not supported by the evidence.[16]

Defendants-appellees Jose M. Lichauco, Trinidad G. Castillo and Francisco and Jose Castillo contend, however, that the reclassification made by the trial court of the areas in Lot 2 was supported by sufficient evidence.[17] Anent plaintiff-appellant's claim that the roads could not be considered residential land because they were not registrable, defendants-appellees contend that the area occupied by the roads had not been previously expropriated or paid for by the government, and their acreage is included in the certificate of title covering the hacienda. Regarding the reclassification of portions of Lot 7-C, defendants-appellees argue that said reclassification was resorted to by the trial court "in order to cure the defect in both the majority and minority reports which do not mention any river bed, hill or roads." Defendants-appellees further contend that the 23.6284 hectares of river bed was reclassified as rolling lands because such portion is found in the area classified as rolling lands, suitable for sugar cane or other crops production; that the roads were classified as first class irrigated riceland because they were found in first class irrigated rice lands. The alleged "error" pointed to by plaintiff-appellant, stating that while the order of February 9, 1963 states that the amendment on paragraph 23, page 18 of the decision refers to Lot 5 it should actually refer to Lot 7-C and that the amendment on paragraph 19, page 18 of the decision while referring to 7-C should actually refer to Lot 5, is simply a clerical error committed by the typist and not a mistake of fact committed by the trial court, hence there is absolutely no basis for plaintiff-appellant's imputation of "lack of care and scrutiny and failure of the trial court to fully appreciate the matter presented before it for determination." [18]

Regarding the share of Mariano Lichauco in Lot 5, plaintiff-appellant contends that the upgrading made by the court of the 15.4957 hectares of second class irrigated land to first class irrigated land, and the 6.8362 hectares of roads to first class irrigated land, as well as the 3.9545 canals and creeks into first class irrigated land, was without basis. Regarding the portion of Lot 7-A of Mariano Lichauco, plaintiff-appellant contends that the evidence does not support the reclassification by the court of the 10.7734 hectares second class upland as first class upland, and the 10.7757 hill as rolling land.[19]

Counsel for the heirs of Macario M.H. Lichauco contends that the reclassification of Lots 7-A and the bigger northern portion of Lot 5 belonging to said heirs was correct, based on the evidence on record regarding the actual description and productive capabilities as verified during the field hearings and ocular inspection held by the Committee on Appraisal; that the classification made by plaintiff-appellant was vitally defective in that it was based upon land capability for rice production alone instead of considering all the legitimate uses to which the

land might be put; that the parcellary plan proposed by plaintiff-appellant did not reflect the true nature of the land at the time of the expropriation, because said plan had been made many years previous to the expropriation and did not take into account the improvements introduced.[20]

Anent the valuation of the different classes of land, plaintiff-appellant contends that the valuation made by the trial court was not fair because the court took into consideration the following: the sale of two parcels of land which were very far from the hacienda, the valuation of property as of 1961 when hearings before the Commissioners were made, instead of December 2, 1957, which was the date of the filing of the complaint, pursuant to Section 5 of Rule 69 of the old Rules of Court; and the decreasing purchasing power of the peso. Plaintiff-appellant insists that the appraisal of the government expert should be maintained.[21]

Regarding the valuation of the property, counsel for defendants-appellees Jose M. Lichauco, Trinidad Castillo and Francisco and Jose Castillo maintains that it was not a mistake for the commissioners on appraisal to consider the valuation as of 1961, that is, at the time of the taking, instead of at the time of the filing of the complaint, and in support thereof cites, among others, the decisions in the cases of Manila Railroad Co., vs. Caligsahan, 40 Phil. 326; Provincial Government of Rizal vs. Caro de Araullo, 58 Phil. 308; Republic of the Philippines vs. Narciso, et al., No. L-6594, May 18, 1956; and Municipal Government of Sagnay vs. Jison, et al., No. L-10484, December 29, 1958.[22]

3. In discussing the fourth assigned error plaintiff-appellant contends that the trial court erred in not finding that the valuation of P4,000.00 per hectare demanded by the defendant landowners in their "motion to dismiss," which value included sentimental value, should set the ceiling price for the just compensation to be awarded them, citing the rulings of this Court in Republic vs. Narciso, supra and in Republic vs. Yaptinchay, et al., No. L-13684, July 26, 1960. Plaintiff-appellant points out that as per decision of the lower court the total value fixed is P4,957,601.86 for the 990.1725 hectares, which gives a value of P5,006.80 per hectare, a price that is more than the P4,000.00 demanded by the defendants.[23]

Counsel for defendants-appellees Jose M. Lichauco, Trinidad G. Castillo and Francisco and Jose Castillo contends that defendants-appellees did not demand in their motion to dismiss P4,000.00 per hectare, but a higher price, as shown by their prayer wherein they ask that, after excluding Lots 8, 9 and 12, plaintiff be ordered to pay defendants the amount of P6,378,000.00 for the land and the improvements thereon;[24] that the case of Republic vs. Narciso supra, cited by plaintiff-appellant, is not applicable to their case because herein defendants-appellees testified on the prices demanded by them which were higher than the average price of P4,000.00 per hectare.[25]

Defendants-appellees Mariano F. Lichauco and the Heirs of Macario M. H. Lichauco contend that although defendants-appellees had mentioned in their motion to dismiss P4,000.00 as the value per hectare, that tentative price was superseded by the "Agreement and Joint Motion" of March 23, 1961, and that to consider that amount as the ceiling price in determining the value of the property would be a violation of the agreement.[26]

Defendants-appellees Maria Lichauco and Amanda de la Cruz contend that all the pleadings, the issues raised and allegations made by the parties, have been superseded by the "Agreement and Joint Motion" which was approved by the trial court. The parties had set a minimum price — the provisional value of P990,172.50 — but no maximum price; that the "Agreement and Joint Motion" was a binding compromise between the parties, and any matter alleged in their previous pleadings which are omitted in the "Agreement and Joint Motion" must be taken to have been intentionally omitted, and that the parties agreed further that the valuation was to be left to the court.[27]

4. In discussing the fifth and sixth assigned errors, plaintiff-appellant contends that the trial court erred in not considering the property being expropriated as one whole mass owned by several co-owners, but instead made a lot by lot classification and valuation; and that the trial court erred in not providing in the decision that the

plaintiff shall have the right to buy any increase in area in G.L.R.O. No. 1 as adjusted and/or adjudicated in favor of the defendant-co-owners.

Plaintiff-appellant argues that in the "Agreement and Joint Motion" signed by the parties on March 23, 1961, the defendants-appellees considered themselves as co-owners of the property being expropriated, and so they should be considered not as owners in fee simple of separate parcels which are not covered by separate titles, but only as owners of certain rights and interests in the property, in which case the appraisal should have been made of the property as a whole without regard to the separate individual interests of each of the defendants-appellees. Moreover, plaintiff-appellant asserts that an area of about 144.0681 hectares, which was still the subject of judicial determination in G.L.R.O. Case No. 1, might be added to the area of 990.17250 hectares which is being expropriated, and in the event said additional area is adjudicated defendants-appellees the plaintiff-appellant, by the express terms of the "Agreement and Joint Motion" has the right to buy the same at the expropriation price, but this price cannot be known as the classification of the probable excess area is also unknown. Plaintiff-appellant, therefore, submits that the whole property should have been valued in its entirety and a lump sum valuation per hectare should have been given so that plaintiff-appellant would know at what price it would buy the excess portions, if adjudicated in favor of defendants-appellees.[28]

Defendants-appellees Jose M. Lichauco, Trinidad G. Castillo and Francisco and Jose Castillo contend that the "entity or unit theory of evaluation" proposed by plaintiff-appellant is not tenable in the instant case because the stipulation of the parties in the "Agreement and Joint Motion" provides precisely for separate sale of the allotted parcels and separate payment to the individual owners thereof.[29]

Defendant-appellees Maria Lichauco and Amanda de la Cruz argue that the plaintiff-appellant objects to lot by lot classification, and yet it submitted a lot by lot classification of the Hacienda El Porvenir[30] which was later incorporated in its brief; that the parties agreed that the defendant-co-owners should be paid according to the areas they agreed to sell;[31] that on pages 19 and 20 of its brief plaintiff-appellant made classifications of portions of Lot 7-E, and, on page 31, of Lot 7-D,[32]

In reply, plaintiff-appellant argues that while it was true that it submitted a lot by lot classification, it did so upon the instance of the trial court as shown in the latter's order of April 11, 1962.[33]

Defendants-appellees Maria Lichauco and Amanda de la Cruz offer no objection to sixth assigned error, although they believe that the inclusion in the decision of the lower court of the matter treated in the sixth assigned error might be premature, because the option to buy depended upon a condition, that, is the event the increase in area be adjudicated to defendants — which event had not yet happened when the decision was made.[34]

We shall now resolve the issues raised in the second, third, fourth, fifth and sixth errors assigned.

We find to be untenable the contention of plaintiff-appellant that the trial court erred in making a classification of every lot owned by each of the owners of the hacienda rather than considering the whole hacienda as one whole mass owned by several co-owners. The record clearly shows that the hacienda had already been partitioned among the several heirs such that each one of the defendants-appellees owned his/her portion separate and distinct from that of the others. In this connection, the following ruling is pertinent:

"It has been held to be wrong to value three separately owned parcels as one and allocate the amount among the owners, even though the parcels had originally been in single ownership and were thereafter divided among the owners, who were all members of one family." (27 Am Jur 2d p. 17, citing Kessler vs. States, 21 App Div 2d 568, 251 NYS 2d 487, the court saying that there was not the necessary unity of ownership for lumping the parcels together for evaluation.)

We made a careful study of the record and the evidence, and it is Our considered view that the findings and conclusions of the lower court regarding the classification of the different portions of the lands belonging to the defendants-appellees and the value for each kind of land should not be disturbed.[35] The lower Court says:

"The commissioners of appraisal, more particularly, the members who signed the majority report, have not only based their report on the different deeds of sale presented during the hearings, but upon the actual inspections made by all the members of the committee on appraisal. The Court, after having reviewed the evidence presented during the hearings of the said committee, and taking into consideration the various deeds of sale presented by the defendants, the fact that the purchasing power of the peso has been going down from the time the complaint for eminent domain was filed by the plaintiff, the majority report of the commissioners, as well as that of the minority and the cases decided heretofore cited, hereby, fixes as the reasonable and fair market value of the land under the present expropriation proceedings as follows:

"1st class irrigated riceland P5,500.00 per ha.
2nd class irrigated riceland 4,500.00 per ha.
3rd class irrigated riceland 4,000.00 per ha.
1st class sugarcane land 4,500.00 per ha.
4th class sugarcane land 3,000.00 per ha.
1st class upland 4,000.00 per ha.
2nd class upland 3,500.00 per ha.
Rolling lands 1,500.00 per ha.
Residential land 1.00 per sq. m."[36]

It cannot be said that the lower court erred in not adopting the price proposed by plaintiff-appellant, because the preliminary estimate of value made upon filing a declaration of taking, in expropriation proceeding, is not conclusive as to value. The deposit of estimated compensation by the Government is not evidence of value and said deposit of estimated compensation does not establish a minimum for an award.[37]

It cannot be said, either, that the lower court erred in not adopting the P4,000.00 per hectare allegedly asked by the owners in their amended motion to dismiss the complaint. The sentimental value of the property to its owners is not an element in the determination of damages.[38] The defendants-appellees simply made an estimate of the price of their lands. Such estimate can not be considered as the maximum price that the defendants-appellees ask, as the motion itself states that the defendants "have no data at this moment upon which to base their computation of the market value of the land", and in the prayer of the same motion, the price asked — which was P6,878,000.00 for the whole property — was certainly more than P4,000.00 per hectare. Anent the price asked by the owners, it has been said that —

"Neither the price that the owners ask for their property, nor the assessed value thereof, is relevant in determining the reasonable market value." (Manila Railroad vs. Mitchell, 49 Phil. 801; Municipality of Tarlac vs. Besa, 55 Phil. 423; Republic vs. Lara, et al., 96 Phil. 170.)

and, as this Court has already said, in cases of expropriations for the benefit of a few a more liberal interpretation of just compensation may be adopted. Thus, in the case of Republic vs. Gonzales, 94 Phil. 956, 961, this Court said:

"Parenthetically, in expropriations like this — for the benefit of other individuals, not directly benefitting the

public — it might be interesting to inquire whether a more liberal interpretation of ‘just compensation’ should be adopted in favor of the owner who is compelled to part with his private property for the exclusive benefit of the few. Consider that unlike other eminent domain proceedings, this does not directly benefit him as part of the ‘public’ * * *."

Anent the sixth error assigned by plaintiff-appellant, it cannot be denied that plaintiff-appellant has a right to buy any increase in area in G.L.R.O. No. 1 that might be finally adjudicated by the court to defendants-appellees, because it was expressly stipulated in paragraph 5 of the "Agreement and Joint Motion" of March 23, 1961 that in the event that the difference in area in G.L.R.O. No. 1 still subject of judicial determination is adjusted and/or adjudicated in favor of defendant co-owners, "the plaintiff shall have the option to buy the said portions in question as adjudicated and pay the corresponding price as in this expropriation case". This stipulation has the force of law between the contracting parties and should be complied with.[39]

In this connection, this Court takes judicial notice of the fact that on December 29, 1971 it rendered a decision in the case of "Benito Ylarde, et al., petitioners vs. Crisanto Lichauco, et al., etc., respondents", G.R. No. L-22115,[40] which settled the question regarding the claim of certain parties of portions of the Hacienda El Porvenir that were allegedly in excess of the lands covered by the survey plan which was the basis of Original Certificate of Title No. 7 that was issued pursuant to the decree of registration No. 1178 in G.L.R.O. No. 1. The decision in the Ylarde case relates to the area mentioned in paragraph 5 of the "Agreement and Joint Motion" of March 23, 1961[41] and in the sixth error assigned by the plaintiff-appellant in the present case. This decision in the Ylarde case, however, does not determine the definite area that was the subject of controversy, because this Court simply ruled that the decree of registration in G.L.R.O. No. 1 had become final and absolute and could no longer be reopened, and so the survey plan that served as the basis of the decree of registration was thereby upheld. The increase in area contemplated in the "Agreement and Joint Motion" is a matter that has yet to be the subject of a hearing before the Court of First Instance of Pangasinan to determine the exact extent of that "increased area" to be expropriated. There is also a need of determining the classification of the lands included in the "increased area", as well as the value of that "increased area", and the proportion that should correspond to each of the defendants-appellees and/or their successors in interest. It must be stated, that the trial court should be guided by the classification and evaluation adopted by it in deciding this case in the first instance, with particular observance of the stipulations in the "Agreement and Joint Motion" of March 23, 1961. The hearing in the court regarding the "increased area", however, should not delay the finality and execution of the judgment in the present case in so far as the 990.17250 hectares of the Hacienda El Porvenir are concerned.

5. Plaintiff-appellant, in discussing the seventh assigned error, claims that the trial court erred in not deducting from the total valuation of the property the value of two school sites previously donated by the landowners to the municipal government of Tayug, Pangasinan, namely: one hectare for the school site at barrio Saleng within Lot 5 which belongs to Mariano Lichauco; and 1.8 hectares for the school site at barrio C. Lichauco, found in Lot 2 which belongs to Trinidad G. Castillo, Francisco Castillo and Jose Castillo. Plaintiff-appellant contends that the Committee on Appraisal ruled that said school sites should be excluded in the computation of the price of the expropriated lands;[42] that the school sites had in fact existed for several years; that the donation of the site at Barrio Saleng is evidenced by Exhibit 4, but that the trial attorney failed to present the deed of donation of the school site at Barrio C. Lichauco, which would have been Exhibit K.[43]

Regarding the 1.8 hectares school site at Barrio C. Lichauco, defendants-appellees Jose M. Lichauco, Trinidad G. Castillo and Francisco Castillo contend that said school site is within the lot that belongs to Trinidad Castillo only; that there was no evidence presented to show the donation thereof; but that, on the contrary, there was never any intention to donate that lot for use as a school site; that said lot had never been expropriated or paid for; that the owner has been trying to collect the price thereof from the government; and that the presence of the school therein

was merely tolerated by the owner.[44]

In connection with the seventh assigned error, it appears in Exh. "J", which is a Deed of Donation dated October 5, 1953, that Mariano F. Lichauco donated for school purposes 5,000 square meters of Lot No. 5, situated in the district of Saleng, to the Municipality of Tayug and that the donation was accepted by the Municipal Mayor in representation of the Municipal Council of Tayug. Said school site, therefore, belongs to the Municipality of Tayug, and is no longer a part of the Hacienda El Porvenir. Consequently, it should not be considered as part of the lands sought to be expropriated, and the lower court should have deducted its value from the expropriation price.

It is not disputed between the parties that the 1.8 hectare school site at Barrio C. Lichauco is part of the Hacienda El Porvenir. One of the characteristics of ownership is perpetuity. Ownership lasts for as long as the thing owned lasts, and it is not extinguished by non-user but only by adverse possession when ownership is transferred to another.[45] Moreover, lands covered by a Torrens title, as in the case of this school site which is a part of Lot 2 of the Hacienda El Porvenir, cannot be the subject of prescription.[46] Plaintiff-appellant claims that this school site had been donated to the Municipality of Tayug. However, no public instrument has been presented by plaintiff-appellant to prove that it had been donated to the Municipality of Tayug. A donation of a piece of land is effected only through a public document executed in accordance with law.[47] It cannot, therefore, be said that the lower court erred in not deducting from the expropriation price of the Hacienda El Porvenir the value of the 1.8-hectare school site at Barrio C. Lichauco.

6. In discussing the eighth error assigned, plaintiff-appellant contends that the trial court erred in holding that the plaintiff-appellant did not have the right and option to choose where the areas to be retained by defendants-appellees should be taken out of the whole property. Plaintiff-appellant argues that it should have been given the right to choose because certain areas of the property were occupied by tenants for whose benefit the expropriation was instituted, and if said occupied areas were the ones segregated more serious problems would arise.[48]

Defendants-appellees Maria Lichauco and Amanda de la Cruz contend that the plaintiff did not have the option to choose where the retained areas should be taken from, because, as plaintiff-appellant says in its brief, "there is an agreement on the general configuration of the area, and the location of the lands that are to be retained by the defendant-landowners".[49]

This Court has ruled that as regards the area to be retained by the owner of the property under expropriation, the parties are expected to come to an agreement on the portion to be exempt from expropriation, and that in case the parties cannot agree the court shall settle the issue. Thus, in the case of *Land Tenure Administration vs. Ceferino Ascue, et al.*, L-14969, April 29, 1961,[50] it was held that since Republic Act No. 1400 is silent on how the portion exempt from expropriation should be determined, the procedure in the Rules of Court on eminent domain should be applied. The one seeking to exercise the right of eminent domain should initially determine the property or portion to be expropriated. The owner of the property may in turn object thereto for valid reasons. Once the issues have been joined, the court shall settle the same in accordance with law. This Court said:

"It is, therefore, our considered opinion that Congress did not intend to give the landowner the power to choose, either what portion shall be expropriated or what portion shall be exempt from expropriation; that, initially, the parties are, therefore, expected to try to reach an agreement, if they can, on the area to be expropriated and/or the area to be excluded from the expropriation proceedings; and that, in the event of disagreement, the courts of justice shall settle the issue, in accordance with the spirit and purpose of the law and the demands of justice, equity and fair play."

It appears in the "Agreement and Joint Motion" of March 23, 1961 that the parties had agreed that the different owners retain certain portions "reflected on the sketch plan hereto attached and made an integral part hereof as Annex "A".[51] The parties having agreed on the area to be retained and the location thereof, plaintiff-appellant cannot claim that it had the right to choose where the retained areas should be taken, but should comply with the agreement. The trial court simply gave effect to that agreement.

7. Regarding the ninth assigned error, plaintiff-appellant contends that the trial court erred in not providing that the additional provisional payment of P500,000.00 should be deducted from the total balance due to defendants-appellees and that said amount should not earn interest from September 10, 1961 when plaintiff-appellant took possession of the property to August 30, 1962 when said amount was paid, because that was the agreement of the parties as evidenced by motion of the parties and the order of the court dated January 3, 1962.[52]

Defendants-appellees Jose M. Lichauco, Trinidad Gonzales Castillo and Francisco and Jose Castillo agree that the plaintiff-appellant is relieved of the payment of interest on the additional provisional payment of P500,000.00 from September 10, 1961 to August 30, 1962.[53]

Plaintiff-appellant's contention in the ninth assignment of error is meritorious. There is no question that the additional provisional payment of P500,000.00 ordered by the trial court on January 3, 1962,[54] and complied with by plaintiff-appellant on August 30, 1962,[55] should be deducted from the total balance of the value of the property expropriated and should not earn interest. Said amount should have earned interest from the date plaintiff-appellant took possession of the property on September 10, 1961 until the date it was paid on August 30, 1962, had it not been for the waiver of said interest, as appears in paragraph 1(b) of the "Joint Agreement and Motion" dated January 2, 1962.[56] Consequently said amount of P500,000.00 should not earn interest from September 10, 1961 to August 30, 1962.

8. Regarding the tenth assigned error, plaintiff-appellant claims that the trial court erred in not providing in the decision that payment be made to the creditor banks in order that all liens and encumbrances on the property be cancelled, inasmuch as that was the agreement of the parties as evidenced by the "Agreement and Joint Motion".[57]

The tenth error assigned by plaintiff-appellant is also meritorious. The lower court should really have provided in the decision that the mortgages on the expropriated lands should be paid to the creditor banks out of the value of the expropriated lands, for it is but right that the government acquires the lands free from all liens and encumbrances.[58]

We now take up the error assigned by some of the defendants.

Defendants Jose M. Lichauco, Trinidad Gonzales Castillo, and Francisco and Jose Castillo, as appellants, contend that the trial court committed the following errors:

1. In following the "Supplementary Report to Exh. "A" in deciding this case insofar as it affected Lots No. 1, 2, portions of 5, 7-B and 7-C of defendants-appellants herein.
2. In not finding and holding that Lots Nos. 1 and 2 and portions of Lot No. 5 belonging to defendants-appellants are first class naturally irrigated rice lands yielding annually from 60 to 85 cavanes per hectare; and that the true, correct and fair market value thereof is P6,500.00 per hectare and that of the residential land is P1.20 per sq. m. which values plaintiff-appellee should pay.
3. In not finding and holding that 18.67 hectares of Lot No. 7-B and 37.18 hectares of Lot No. 7-C belonging to defendants-appellants are first class naturally irrigated rice lands yielding annually from 40 to 60 cavanes of

palay per hectare, and that the true, correct, fair and reasonable market value thereof is P5,500 per hectare and that of the residential land is P1.20 per sq. m. which plaintiff-appellee should pay.

4. In not finding and holding that the 15.85 hectares of non-irrigated rice land and 65.80 hectares of sugar upland of Lot No. 7-B has a true, correct, fair and reasonable market value of P4,500 per hectare as sugar cane land or P4,000 as first class rice upland which plaintiff-appellee should pay.

5. In not finding and holding that the 37.7912 hectares of rice land or sugar cane upland of Lot No. 7-C has a true, correct, fair and reasonable value of P4,500 per hectare as sugar land or P3,000 per hectare as rice upland which plaintiff-appellee should pay.

6. In not fixing and determining the true, correct, and fair market values of the disputed excess areas separately owned by the defendants-appellants which should be paid to them respectively should the same be adjudicated to them.

9. In support of their first assigned error, herein defendants-appellants contend that the trial court ordered on April 11, 1962 the Land Tenure Administration, more particularly Mr. Juvenal R. Raguini, to submit a report supplementary to Exhibit A indicating what lots the irrigated 1st class and the irrigated 2nd class lands were found, etc., and in compliance therewith Mr. Raguini submitted on October 1, 1962 the "Memorandum of Mr. Juvenal Raguini, Lot by Lot Area and Classification of Hda. El Porvenir", against which memorandum herein defendants-appellants filed their opposition. In its decision, the lower court stated that Mr. Raguini, on complying with the order of the court, exceeded his authority "because he had reclassified the land not in accordance with the report of the commissioners but, perhaps, in accordance with his opinion." Notwithstanding said observation, however, the trial court followed in toto the classification made by Mr. Raguini in the Supplementary Report, Exh. A-1 Supplement, and it thus erred when it found that in Lot No. 7-B only 2.4696 hectares are first class irrigated riceland, 4.1865 hectares are second class irrigated riceland, 48.2220 are first class upland, and 29.6741 hectares are rolling land; and that in Lot No. 7-C there are 21.3487 hectares of first class riceland, 9.8595 of first class upland, 24.2378 hectares of second class upland, and 23.6286 hectares rolling land. These defendants-appellants further contend that said supplementary report was not presented as evidence during the hearings before the Commissioners, and did not, therefore, form part of the competent evidence to be considered by the court.[59]

Plaintiff as appellee, on the other hand, contends that although defendants-appellants considered the presentation of Supplementary Report to Exh. A as an error committed by the trial court, it appears that defendants-appellants adopted the same and contest only the correctness of the respective classification of the land made by Mr. Raguini.[60]

In reply, defendants-appellants state that they did not adopt the Supplementary Report to Exh. A, as shown by the fact that they submitted their own parcellary plans, Exhibits "1" and "1-A, Trinidad Manolo and Minors." [61]

10. Regarding the second, third, fourth, and fifth errors assigned, defendants-appellants Jose M. Lichauco, etc., argue that Mr. Raguini classified Lots Nos. 1, 2 and 5 of plan Exhibit "1", from which plan Exh. "A-1" was copied, as first class irrigated land, but he opined that the productivity per hectare was only from 40 to 60 cavanese per hectare basing his opinion on the rates of production found for the different kinds of soil in the books of the College of Agriculture of the University of the Philippines, as set by the Bureau of Lands. These appellants, however, claim that the uncontradicted testimonies of witnesses for the defendants-appellants was that the actual production was from 60 to 85 cavanese per hectare. Mr. Raguini also classified portions of Lots 7-B and 7-C basing their productivity in the books of the College of Agriculture as against the uncontradicted testimonies of defendants-appellants, which parcels are naturally irrigated, unlike the Hacienda Gonzales which was irrigated by pump.[62]

Plaintiff as appellee maintains that defendants-appellants do not claim that the classification by the trial court of

Lot 1 owned by Jose Manuel Lichauco as first class land irrigated was erroneous, but only that it should be a special kind of first class irrigated land which should be evaluated at P6,500.00 per hectare, allegedly because the actual production is from 60 to 85 cavanos per hectare.[63]

Regarding Lot 7-B, plaintiff as appellee contends that it was at a loss as to how defendants-appellants arrive at their conclusion and claim that an area of 18.67 hectares should be classified as first class irrigated riceland, to be valued at P5,500 per hectare, and that 15.85 hectares should be considered non-irrigated, riceland to be valued at P4,000 per hectare. In relation to Lot 7-C, plaintiff as appellee also claims that it does not know how defendants-appellants arrived at the size of 37.7912 hectares which the latter-claimed either to be sugar land to be valued at P4,500 per hectare, or rice upland to be valued at P3,000 per hectare.[64] Furthermore, the demand of the defendants-appellants in their motion to dismiss was only P4,000 per hectare. The average price of P5,006.80 given by the trial court for the expropriated lands was already far in excess of the P4,000 per hectare demanded by the defendants-appellants.

The first to the fifth errors assigned by defendants-appellants Jose M. Lichauco, Trinidad Gonzales and Francisco and Jose Castillo question the correctness of the finding of the lower court regarding the valuation of the lands owned by them. We have already ruled that the lot classification and the valuation made by the lower court of the lands sought to be expropriated are reasonable and fair, and should not be disturbed.

11. Regarding the sixth error assigned by the defendants-appellants, that the trial court should have fixed and determined the fair market value of the disputed excess area, We have already adverted to that the matter of determining the exact area of that excess or "increased area", its classification, its valuation, and the proportionate share of the defendants-appellees are matters that should be determined by the lower court in a hearing specially held for the purpose.[65]

We find that the findings of the lower court regarding the areas or the portions or lots belonging to each of the defendants-appellees and/or their successors in interest, the classification of the lands and the value of the lands according to classification, are supported by the evidence. Excepting possible errors in mathematical computation, the following, based on the findings of the lower court as regards the area, land classification, and valuation per hectare as classified, should be the amounts representing the value of the portions of the Hacienda El Porvenir respectively owned by the defendants-appellees and/or their successors in interest which are expropriated by the plaintiff-appellant:

A. OF AMANDA DE LA CRUZ

Area in

Price per

Kind

hectares

hectares

Value

1st class

riceland

24.0721

P5,500

P132,396.55

2nd class

riceland

12.4740

P4,500

56,133.00

1st class sugar-

cane land

21.2260

P4,500

95,517.00

4th class sugar-

cane land

20.1487

P3,000

60,446.10

1st class

riceland

(creeks & canals)

.3806

P5,500

2,093.30

2nd class

riceland

(creeks & canals)

.1902

P4,500

855.90

Residential

1.9946

P1/sq. m

19,946.00

80.4862

P367,387.85

B. OF JOSE M. LICHAUCO

Area sold

Price per

Kind

in hectares

hectare

Value

Lot 1 - 1st class

irrigated

121.9865

P5,500

P670,925.75

Lot 7-B – 1st class

irrigated

2.4696

P5,500

13,582.80

2nd class

irrigated

4.1865

P4,500

18,839.25

3rd class

irrigated

5.3748

P4,000

21,499.20

1st class

upland

48.2220

P4,000

192,888.00

Rolling land

29.6741

P1,500

44,511.15

211.9135

P962,246.15

C. OF THE HEIRS OF MACARIO H. LICHAUCO namely, Romeo, Lourdes, Mauricio, Narcisa, Walter, Daisy, Herminia, Orlando, Titania, Norman, Jesus, Salvador, Mario, Helena, and Arturo, all surnamed Lichauco, and Modesto Cabato.

Area sold in

Price per

Kind

hectares

hectare

Value

1st class

irrigated

riceland

145.0072

P5,500

P797,539.60

1st class

upland

57.7698

P4,000

231,079.20

Residential

15.3777

P1/sq. m

153,777.00

1st class

irrigated

(creeks &

canals)

2.4380

P5,500

13,409.00

220.5927

P1,195,804.80

D. OF THE HEIRS OF RENATO (RENE) LICHAUCO, namely, Maria R. Vda. de Lichauco, Crisanto Lichauco, and Marieta Lichauco.

Area in

Price per

Kind

hectares

hectare

Value

Irrigated

first class

18.8845

P5,500

P103,864.75

Irrigated

second class

5.9578

P4,500

26,810.10

Irrigated

third class

15.6157

P4,000

62,462.80

Residential

.9463

P1/sq. m.

9,463.00

First class

upland

27.2508

P4,000

109,003.20

Fourth class

sugarland

15.4831

P3,000

46,449.30

84.1382

P358,053.15

E. OF MARIANO LICHAUCO

Area in

Price per

Kind

hectares

hectare

Value

Lot 5:

1 st class

irrigated

129,27935

P5,500

P711,036.43

1 st class

upland

4.3765

P4,000

17,506.00

Lot 7-A:

1 st class

irrigated

31.1835

P5,500

171,509.25

2 nd class

irrigated

11.3272

P4,500

50,972.40

1 st class

upland

10.7734

P4,000

43,093.60

Rolling

land

10,7757

P1,500

16,163.55

197.71565

P1,010,281.23

From the value of Mariano Lichauco's land is to be deducted the value of 5000 square meters in Lot No. 5 donated to the Municipality of Tayug for school purposes in Barrio Saleng. The evidence does not disclose where this school site is located, whether in the first class irrigated or in the first class upland. Instead of having the value of this school site determined by the lower court in a hearing for the purpose, in order to avoid delay, We may just as well compute the value of the 5000 square meters on the basis of the average value of the hectare in Lot No. 5. The portion of Lot No. 5 pertaining to Mariano Lichauco is 133.65585 hectares, having a value of P728,542.43, thus giving P5450.88 as the value per hectare. The 5000 sq. m., or 1/2 hectare, will then be valued at P2725.44; and deducting this P2725.44 from P1,010,281.23 there will remain P1,007,555.79 as the total value of the land corresponding to Mariano Lichauco.

F. OF TRINIDAD CASTILLO GONZALES

Area in

Price per

Kind

hectares

hectare

Value

Lot 2:

1st class

irrigated

15.056

P5,500

P82,808.00

Residential

6.7382

P1/sq. m.

67,382.00

Lot 7-C:

1st class

irrigated

10.6743

P5,500

58,708.65

1st class

upland

4.0000

P4,000

16,000.00

2 nd class

upland

21.447226

P3,500

75,065.29

Rolling

land

5.2074084

P1,500

7,811.11

Lot 5:

1st class

irrigated

10.61356

P5,500

58.374.58

Residential

3.8944

P1/sq. m.

38,944.00

77.6310944

P405,093.63

G. PORTION OF FRANCISCO & JOSE CASTILLO

Kind

Area in

Price per

Value

hectares

hectare

Lot 2:

1st class

irrigated

67.7104

P5,500

P372,407.20

Residential

.40

P1/sq. m.

4,000.00

Lot 7-C:

1st class

irrigated

10.6743

P5,500

58,708.65

1st class

upland

5.8595

P4,000

23,438.00

2nd class

upland

2.621772

P3,500

9,176.20

Rolling land

18,42119160

P1,500

27,631.79

Lot 5:

1st class

irrigated

8.49759

P5,500

46,736.75

Residential

3.1340

P1/sq. m.

31,340.00

117.31875360

P573,348.59

It results that the total value of the lands in the Hacienda El Porvenir that are being expropriated is P4,872,305.40 which, divided by 990.1725, gives P4,920.66 as the average value per hectare.

As shown in the record, the following payments have been made by the plaintiff-appellant to the defendants-appellees and/or their successors in interest:

(1) The provisional payment of P990,172.50, deposited in court on July 1, 1961.

(2) The additional provisional payment of P500,000.00, deposited in court on August 30, 1962. By agreement of the parties, approved by the court, this sum of P500,000.00 should not earn interest from September 10, 1961, when plaintiff-appellant took possession of the lands being expropriated, to August 30, 1962 when payment was made.[66] This would give a total of P1,490,172.50 paid as of August 30, 1962 — which did not earn interest.

(3) The sum of P490,172.50, authorized by this Court in its resolution of October 12, 1965.[67] The record does not show when this sum was actually paid to the defendants-appellees and/or their successors in interest. At any rate, the plaintiff-appellant should pay interest at the legal rate on this amount from September 10, 1961 up to the time when said amount was paid. This would give a total of P1,980,345.00 thus paid, as of the time the P490,172.50 was actually paid to the defendants-appellees and/or their successors in interest.

(4) The sum of P495,086.20, representing the advance payment of P500.00 per hectare, as authorized by the resolutions of this Court of June 15 and 23, 1970 and July 8, 1970.[68] The record shows that the Secretary of Finance released said amount sometime in April 1971, although it does not appear when said amount was actually paid to the defendants-appellees and/or their successors in interest. At any rate, the plaintiff-appellant must also pay interest at the legal rate on this sum of P495,086.20 from September 10, 1961 up to the time said

sum was paid. This would give a total of P2,475,431.20 thus paid as of the time the P495,086.20 was actually paid to the defendants-appellees and/or their successors in interest.

As We have hereinbefore indicated, the total value of the lands in the Hacienda El Porvenir being expropriated is P4,872,305.40. Considering that the sum of P2,475,431.20 had already been paid by plaintiff-appellant, it results that there still remains the balance of P2,396,874.20 that the plaintiff-appellant should pay to the defendants-appellees and/or their successors in interest. The defendant-appellant should pay interest at the legal rate on this sum of P2,396,874.20 from September 10, 1961 until complete payment is made.[69]

The record shows that the provisional payments of P990,172.50 and P500,000.00 were divided among the defendants-appellees and/or their corresponding successors in interest in the manner as provided in the "Agreement and Joint Motion" of March 23, 1961".[70] The record does not show how the subsequent payments of P490,172.50 and P495,086.20 were divided among the defendants-appellees and/or their successors in interest, but it is assumed that those sums were divided among them also in the manner as provided in the "Agreement and Joint Motion" of March 23, 1961. The balance of P2,396,874.20 and all the accrued interests, when paid, must be divided among the defendants-appellees and/or their successors in interest, also in the manner as provided in the "Agreement and Joint Motion" of March 23, 1961.[71]

From the amount due to each of the defendants-appellees and/or their successors in interest must be taken and paid directly to the creditor banks such amount as may still be due for any mortgage obligation affecting any parcel of the lands being expropriated, in order that the government would acquire title to these lands free of all liens and encumbrances.

WHEREFORE, with modifications as stated in this opinion, the decision, dated October 26, 1962, and the order, dated February 9, 1963, appealed from, are, in all other respects, affirmed.

Let the record of this case be remanded to the court of origin for the determination of the exact area, land classification, value and the division among defendants-appellees and/or their successors in interest, of the additional area that may still be the subject of expropriation by the plaintiff-appellant as a result of the decision of this Court in the case of "Ylarde, et al. vs. Crisanto Lichauco, et al., (G.R. No. L-22115).

The attorney's lien of Atty. Rafael Dinglasan, representing 5% of whatever payment is due to his clients, the defendants-appellees Jose M. Lichauco, Trinidad G. Castillo, Francisco Castillo and Jose Castillo, as previously made of record in this case by said attorney, is ordered enforced.

No pronouncement as to costs.

IT IS ORDERED.

Concepcion, C.J., Makalintal, Castro, Fernando, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Reyes, J. B. L., and Teehankee, JJ., did not take part.

[1] Mariano F. Lichauco, Macario M.H. Lichauco, Manuel J. Lichauco, Rene P. Lichauco, Amanda L de la Cruz accompanied by her husband Servillano de la Cruz, Olga Gonzales de Castillo, Jose Castillo, Francisco Castillo, Trinidad Gonzales de Castillo and Manuel Castillo. All these defendants, except Servillano de la Cruz, Manuel Castillo and Olga Gonzales de Castillo are the known heirs of the deceased Crisanto Lichauco.

[2] Plaintiff's Record on Appeal, pp. 78-92.

[3] Pages 165, 168, 170, 171, 186 and 191 of the Record.

- [4] Brief for Defendants-Appellees Maria Lichauco and Amanda de la Cruz, pp. 7-8. Maria Lichauco is the widow of Renato (Rene) P. Lichauco who substituted for her husband upon the latter's death, in her own right as heir and as guardian-ad-litem of her minor children, Crisanto and Marieta, both surname Lichauco (pp. 24, 30 and 33, Record on Appeal of defendants-appellants Jose M. Lichauco, et al.)
- [5] Plaintiff-Appellant's Brief, pp. 21-23.
- [6] Page 155 Plaintiff's Record on Appeal.
- [7] Pages 139-140, Plaintiff's Record on Appeal. See pp. 22-25, of Brief for defendants-appellees Maria Lichauco and Amanda de la Cruz.
- [8] TSN, pp. 251-252, Sept. 18-20, 1961, Estrada.
- [9] Brief of defendants-appellees Maria Lichauco and Amanda de la Cruz, pp. 35, 38-39, 40, 41-57.
- [10] Plaintiff-Appellant's brief, pp. 23-26.
- [11] Brief of defendants-appellees Jose M. Lichauco etc., pp. 18-20.
- [12] Plaintiff-appellant's brief, pp. 26-30.
- [13] Brief of defendants-appellees Mariano Lichauco and Heirs of Macario H. Lichauco, pp. 10-15.
- [14] Reply brief of plaintiff-appellant, pp. 9-10.
- [15] Plaintiff-appellant's brief, pp. 30-31.
- [16] Plaintiff-appellant's brief, pp. 33-41.
- [17] See brief of Jose M. Lichauco, etc. as defendants-appellants, pp. 28-57.
- [18] Brief for defendants-appellees Jose M. Lichauco, etc., pp. 22-26.
- [19] Plaintiff-appellant's brief, pp. 45-48.
- [20] Brief of defendants-appellees Mariano Lichauco and Heirs of Macario H. Lichauco, pp. 21-25.
- [21] Plaintiff-appellant's brief, pp. 50-51, 62, 65, 93.
- [22] Brief for Defendants-appellees Jose M. Lichauco, etc., pp. 31-35.
- [23] Plaintiff-appellant's brief, pp. 93-97.
- [24] Plaintiff-appellant's Record on Appeal, pp. 56-57.
- [25] Brief of defendants-appellees Jose M. Lichauco, etc., pp. 46-49.
- [26] Brief for Defendants-appellees Mariano F. Lichauco and the Heirs of Macario M.H. Lichauco, p. 27.
- [27] Brief for Defendants-appellees Maria Lichauco and Amanda de la Cruz, pp. 57-60.
- [28] Plaintiff-appellant's brief, pp. 97-101.
- [29] Brief for Defendants-appellees Jose M. Lichauco etc., pp. 49-51.
- [30] Plaintiff-appellant Record on Appeal, pp. 227-228.
- [31] Par. 8 of Agreement and Joint Motion.

[32] Brief for Defendants-Appellees Maria Lichauco and Amanda de la Cruz, pp. 9-12.

[33] Reply brief of plaintiff-appellant, p. 2-3.

[34] Brief for Defendants-Appellees Maria Lichauco and Amanda de la Cruz, pp. 60-62.

[35] 27 Am. Jur. 2nd. p. 326.

[36] Plaintiff-appellant's Record on Appeal, pp. 257-259.

[37] 27 Am Jur 2d pp. 325-326 citing Jacksonville Expressway Authority vs. Bennett (Fla App) 158 So 2d 821; Evans vs. United States (CAB Neb) 326 F2d 827.

[38] Republic vs. Yaptinchay, et al., L-13684, July 26, 1960.

[39] Article 1199, Civil Code.

[40] 42 SCRA 641.

[41] See footnote 2 ante.

[42] Plaintiff-appellant's Record on Appeal, pp. 147-148.

[43] Plaintiff-appellant's brief, pp. 101-103.

[44] Brief for Defendants-appellees Jose M. Lichauco, etc., pp. 51-53.

[45] An outline of Civil Law, by Reyes and Puno, Vol. II, p. 21.

[46] Act 496, Sec. 46

[47] Vitug vs. Montemayor, et al., 93 Phil. 939, 943.

[48] Plaintiff-appellant's brief, pp. 103-107.

[49] Brief for defendants-appellees Maria Lichauco and Amanda de la Cruz, pp. 62-68. See also Plaintiff-appellant's brief, p. 106.

[50] 1 SCRA, 1244.

[51] Plaintiff-appellant's Record on Appeal, pp. 79-80. Note paragraph 2 of the "Agreement and Joint Motion" making reference to sketch marked as Annex A and made part of the agreement.

[52] Plaintiff-appellant's brief, pp. 107-110.

[53] Brief for Jose M. Lichauco, Trinidad G. Castillo and Francisco and Jose Castillo, pp. 54-55.

[54] Plaintiff-appellant's Record on Appeal, p. 219.

[55] Ibid, p. 239.

[56] Ibid, p. 217.

[57] Plaintiff-appellant's brief, pp. 111-112.

[58] Republic vs. Philippine National Bank, et al., G. R. No. L-14158, April 12, 1961; 1 SCRA 957.

[59] Brief for Defendants-Appellants Jose M. Lichauco, Trinidad Gonzales Castillo and Francisco and Jose

Castillo, pp. 17-23.

[60] Brief for Plaintiff-Appellee, p. 8.

[61] Reply Brief for Defendants-Appellants, p. 3.

[62] Brief for defendants-appellants, pp. 23-25.

[63] Brief for Plaintiff-Appellee, p. 13.

[64] Brief of Plaintiff-Appellee, pp. 13, 14 and 22.

[65] See footnotes 40 and 41, ante.

[66] Plaintiff-appellant's Record on Appeal, pp. 216-219.

[67] Record, p. 98.

[68] See footnote 3, ante.

[69] Republic vs. Lara, 96 Phil. 170, 184.

[70] Decision of the lower court; pp. 273-274, Plaintiff-appellant's Record on Appeal.

[71] From the payment to defendant-appellee Mariano Lichauco must be deducted, and retained by plaintiff-appellant, the sum of P2,725.44 representing the value of 5,000 square meters in Lot No. 5 corresponding to said defendant-appellee, which is the school site in Barrio Saleng that was previously donated by defendant-appellee Mariano Lichauco to the municipality of Tayug.

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