

**THE CITY GOVERNMENT OF TOLEDO CITY, PETITIONER, VS.
HONORABLE JUDGE PIO FERNANDOS, CFI, CEBU, FLORO ESPINA,
FILOMENO TROCIO, RAMONA VALDIVIA, SPOUSES FRUCTUOSO
SIGUE AND MARIA B...**

G.R. No. L-45144. April 15, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In this petition for certiorari and mandamus, petitioners seek to nullify a decision of the Court of First Instance of Cebu dated October 6, 1975 in an action for eminent domain, the dispositive part of which reads as follows:

"WHEREFORE, in view of the foregoing considerations, the Court hereby renders judgment, to wit:

1. Declaring the City Government of Toledo City entitled to the possession and use of the properties and subject matter of this expropriation proceedings and as specified in Paragraphs IV and V of the complaint, with the right to establish, construct and maintain an extension of the Poloyapoy Street in Toledo City in accordance with the Sketch Plan, Exh. 'F';

2. Ordering plaintiff, the City of Toledo, to pay defendants, by way of just compensation, the following sums, as indicated hereunder, to wit:

a) Floro Espina P94,020.00

b) Filomeno Trocio 7,260.00

c) Ramona Valdivia 11,730.00

d) Spouses Fructoso

Sigue and Maria Bacalso and

Lourdes Canonigo 12,000.00

3. Ordering plaintiff to pay defendants interest at the rate of 6% per annum from the date of the filing of the complaint until the aforesaid sums shall have been fully paid. Without costs."

This involves an expropriation proceeding covering several parcels of land belonging to private respondents initiated by petitioner wherein pursuant to P.D. No. 42 the amount of P33,060.00 was deposited with the Philippine National Bank, Toledo Branch, by petitioner.[1] A pre-trial conference was undertaken presided by the respondent judge with all the parties present and on the basis of what transpired in the conference he rendered a judgment.[2] Petitioner alleges that the respondent judge committed a grave abuse of discretion and acted without jurisdiction when he denied its motion for reconsideration of the judgment, issued an order for a writ of execution on March 25, 1976, and that said writ of execution was enforced by the garnishment of the deposit of petitioner earmarked for infrastructure in the amount of P132,927.20 as shown by a receipt issued by the sheriff to the

Philippine National Bank of Toledo sub-branch.[3]

Anent the first issue, petitioner contends that the appraisal of the properties being expropriated by petitioner should be based on the current and fair market value declared by the owners or administrator or such market value as determined by the assessor or whichever is lower as provided for under P.D. No. 76. Petitioner argues that the assessed value of the lots are much lower than the appraised value of P30.00 per square meter which was adopted by the trial court.

P.D. No. 1533 which is the latest decree related to P.D. No. 76 had been struck down as null and void by this Court in the case of Export Processing Zone Authority vs. Dulay.[4]

We held in that case that:

"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.

"We, therefore, hold that P.D. No. 1533, which eliminates the court's discretion to appoint commissioners pursuant to Rule 67 of the Rules of Court, is unconstitutional and void. To hold otherwise would be to undermine the very purpose why this Court exists in the first place."

What governs, therefore, in the ascertainment of just compensation in eminent domain proceedings is Rule 67 of the Rules of Court and not P.D. No. 76 and other related decrees, P.D. Nos. 464, 794, 1224, 1259, 1313 and 1533.[5]

In the pre-trial conference that was held, the parties presented their respective positions in the case. The petitioner through the City Mayor submitted itself to the discretion of the court as to the correct valuation. Private respondents stated that they have no objection and were in conformity that the reasonable price of their land should be P30.00 per square meter. The City Assessor informed the Court of the current market value and appraisal value of properties in the area and the factors to be considered in the determination of their value. On the basis of the evidence adduced, the trial court arrived at the following findings:

"After a careful study of the record of the case, together with all the documents presented by the parties, the Court is of the considered view that the parcels of land being traversed by the extension of the Poloyapoy street which is about 60 to 100 meters behind the National Highway and about 500 meters from the Atlas Fertilizer industrial complex at Sangi, Toledo City and taking into account the condition and location of the place, the topography, the improvements such as coconut trees and rice paddies, the present global trend of soaring prices of commodities and services, the Court sincerely believes that the fair and reasonable market value of the lands of the defendants should be fixed at the rate of Thirty Pesos (P30.00) per square meter.

"In arriving at this conclusion the Court has taken into account the various instances where the City Government of Toledo bought and paid for lands taken for roads, streets, and other public purposes at prices ranging from P20.00 to P43.00 per square meter; that in 1971, the land of Engineer Cavada which is one of those traversed by the Poloyapoy street extension and one of the properties similarly situated as those lands of the defendants herein, was bought at the price of P25.00 per square meter; that in June 1971 the City of Toledo also bought the land of Rosalia Katungan, situated at the poblacion of Toledo City, at P39.00 per square meter (Exh. "2"); that the Barrio of Sangi, Toledo City bought and paid the land of Lorenzo Tabelin, situated at Sangi, Toledo City, at P40.00 per square meter (Exh. "3"). In a private transaction of absolute sale, one Julian Tabanag bought and paid the land of Gabriel Trocio located at Luray, Toledo City (Poblacion), at P38.58 per square meter (Exh. "1"). In a decision of this Court in Civil Case No. 500, penned by Judge Alfredo

Marigomen, the Court fixed the price of the land of Esperanza Trocio Vda. de Garcia, located at the national road adjacent to the Atlas Fertilizer industrial complex at Sangi, Toledo City, at P43.83 (Exh. "4"). In another case, Civil Case No. 286-T, this Court fixed the price of the land of the Heirs of Patricio de la Cerna, situated at the poblacion of Toledo City, about 60 meters from the Central School building and about 300 meters from the Atlas Fertilizer industrial complex, at P38.00 per square meter.

"The Court has taken further into consideration the various factors necessarily affecting the rise of prices of parcels of land in the poblacion or in the interior part of the poblacion of Toledo, City, which are as follows:

1.)

the location of the Atlas Fertilizer Corporation industrial complex at Sangi, Toledo City which was established before Toledo City became a City in 1961;

2.)

the location of the properties in relation to the Atlas Fertilizer Corporation industrial complex;

3.)

accessibility or proximity of the public towards the school zone or the city government;

4.)

the improvements found in the properties;

5.)

the purpose for which the property is taken by the city government;

6.)

the various transactions involving properties adjacent to or similarly situated as the parcels of land involved in this case.

7.)

the prevailing price and general trend of the continuously rising prices of fuel, oils, gasoline or other goods in the market, products of the factory, agriculture and the industrial as well as the various services rendered by the professions (such as doctors, lawyers, engineers), hospitals, schools, etc..

"While the lands in question are classified as cocal or agricultural, according to their tax declarations, yet, the Court considers these properties as situated within the industrial zone of the City of Toledo, the same being within the poblacion of Toledo City; the proposed extension of the Poloyapoy St. being only around 60 to 100 meters to the national highway, around 300 meters to the Atlas Fertilizer industrial complex zone. Hence, the court has come to the unhesitating conclusion that the fair market value of the parcels of land in question shall

be fixed at the rate of P30.00 per square meter.

From the foregoing, it is clear that contrary to the claim of petitioner that no evidence was adduced during the pre-trial conference, what the records show is that such evidence was received which was the basis of the finding of the court a quo as to the reasonable price of the property of private respondents being expropriated i.e. P30.00 per square meter. Such finding of the court will not be disturbed on appeal unless a clear error or grave abuse of discretion has been demonstrated.

Clearly, the judgment of the court a quo is supported by the evidence and the applicable law.

WHEREFORE, the petition is DISMISSED for lack of merit, without pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Grino-Aquino, JJ., concur.

[1] Annex "P" to petition.

[2] Annex "A" to petition.

[3] Annex "N" to petition.

[4] 149 SCRA 305.

[5] Ignacio vs. Guerrero, 150 SCRA 369, 377-379.

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