

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH),
PLAINTIFF-APPELLANT, VS. SPOUSES WILLIAM G. HERNANDEZ AND
ROSEMARIE Z. HERNANDEZ,...**

Ponente: DIAMANTE, J.

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DIAMANTE, J.:

This is an appeal under Rule 41 of the Revised Rules of Court assailing the December 3, 2013 Decision^[1] of Valenzuela City, Metro Manila Regional Trial Court, Branch 172 (hereinafter referred to as RTC) in Civil Case No. 266-v-07, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered fixing the just compensation of the 979 square meters lot at Php [4,500,00.00] (500 sq meters x Php [9,000.00]) and authorizing the payment thereof by the plaintiff to the defendants for the property condemned deducting the provisional deposit of Php 1,150,000.00 previously made and subject to the payment of all unpaid real property taxes and other relevant taxes by the defendants, if there be any.

The plaintiff is directed to pay interest at the rate of 12% per annum on the amount of deposit of Php 1,150,000.00 from the time of the filing of the complaint on December 10, 2007 up to the time that the said amount was deposited in court by the plaintiff on June 12, 2008 and to pay the interest rate of 12% per annum on the unpaid balance of just compensation of Php 3,350,000.00 (Php [4,500,000.00] – Php 1,150,000.00) computed from the time of the filing of the complaint until the plaintiff fully paid the balance.

The plaintiff is also directed to pay the members of the Board of Commissioners the amount of Php 3,000.00/each as Commissioner's fees.

SO ORDERED."

The antecedent facts of the case, as culled from the assailed Decision, are as follows:

On December 10, 2007, plaintiff filed a complaint for expropriation of a residential parcel of land belonging to the defendants situated [in] Barangay Ugong, Valenzuela City, consisting of FIVE HUNDRED (500) square meters, covered by Transfer Certificate of Title No. V-79546 of the Registry of Deeds of Valenzuela City, for the construction of C-5 Northern Link Road Project, Segment 8.1 from Mindanao Avenue in Quezon City to the North Luzon Expressway, Valenzuela City, a public purpose authorized by law. The current zonal valuation of the property within the vicinity is Php 2,300.00 per square meter.

In the complaint, plaintiff alleged that the subject property has not been applied to nor expropriated for any public use and is indispensable in implementing the C-5 [Northern Link] Road Project, a public purpose authorized by law. Plaintiff offered to purchase the said property for an amount based on the current zonal valuation to which the defendants refused to agreed [sic] on to.

In their Answer, defendants admitted that they are supportive [of] all the government projects intended for faster and comfortable travel for the motoring public in going to and coming from Northern Luzon and

Metropolitan Manila. They admit the zonal valuation of the lot at Php 2,300.00 per square meter but [claim] for a just compensation based on the prevailing market value of other properties within the vicinity of the place which ranges between Php 10,000.00 to Php 15,000.00 per square meter considering that they are already situated in an industrial site, quite near to Mindanao Avenue, apart from the fact that some nearby lots have been devoted to good business ventures such as construction of warehouses.

During the hearing on the prayer for issuance of Writ of Possession, defendants-spouses [were] able to establish ownership of the property sought to be expropriated. On June 6, 2008, this branch of court ordered the issuance and release of a check issued by the plaintiff payable to the defendants-spouses in the amount of One Million [One] Hundred Fifty Thousand pesos (Php 1,150,000.00) representing the zonal valuation of the property. The court likewise ordered the issuance of a writ of possession in favor [of] herein plaintiff.

On June 27, 2008, the aforementioned amount of Php1,150,000.00 was released to defendants-spouses William Hernandez and Rosemarie Hernandez [through] their [attorney]-in-fact, Mr. Roberto F. Benitez.

On July 16, 2008, the Writ of Possession and Order of Expropriation were correspondingly issued by this Court in the above-entitled case.

At the second stage of the proceedings, three members of the board of commissioners were duly appointed to ascertain and report to the Court the compensation of the properties sought to be taken in this case.

The sole issue to be determined by this Court is whether or not the just compensation should be based on the current zonal valuation of the property at the time of the taking of the prevailing market value of the said property.

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Based on the hearing conducted by the members of the Board of Commissioners, plaintiffs presented Ms. Zenaida Galvez, Community Relations Chief B and Fe Pesebre, [Officer-In-Charge] OIC of the Institutional Development Division and worked as Chief A in the Resettlement and Development Service Department of the National Housing Authority. Their testimonies consisted on proving that in several portions of C-5 Northern Link Road Project, Segment 8.1 Valenzuela City, there were informal settlers numbering 3,347 in Barangay Ugong and Barangay Gen. T. De Leon in 2006 to 2007 and 2,617 in Barangay Ugong and Gen. T. [De Leon] in 2007 to 2010 [as] per census they conducted.

Defendants opted not to present testimonial evidence as they relied on the Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Case provided under Sec. 5 of Republic Act [RA] No. 8974. [They] adopted their marked evidence on record in proving ownership of expropriated lot aside from the plaintiff's parcellary plan prepared by the [Department of Public Works and Highways] DPWH attached to the complaint and invoked the doctrine of "stare decisis" insofar as Decision had been passed by the RTC of Valenzuela City in other expropriation cases.

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Taking into consideration the recommended [Bureau of Internal Revenue] BIR zonal valuation as appearing in the complaint of Php [2,300.00] per square meter, the value declared by the defendants in the amount of Php [15,000.00] per square meter in their position paper, the recommendation of the Board of Commissioners in the amount of Php [10,000.00] and this court's observation on the location of the property which is 136.12 meters away from Hobart Realty Development Corporation, a commercial lot which value of the property was pegged by this court at Php [15,000.00]/sq. meter in a decision dated March 16, 2010 in Civil Case No. 15-v-08 which decision was affirmed by the Court of Appeals and Supreme Court, the classification of the lot which is for mixed residential and/or industrial lot usage, and the selling price of the property within the vicinity, the Court rules that the just compensation for the [defendants'] property sought to be taken in this case is fixed at Php [9,000.00] per square meter.

Plaintiff tried to lower the value of the subject property by proving that in several portions of C-5 Northern Link Road Project, Segment 8.1, Valenzuela City, there were informal settlers, no improvements/drainages and there were also wanted criminals in some areas. Plaintiff, however, failed to prove that the subject property is near the areas mentioned.

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On December 3, 2013, the RTC rendered the assailed Decision ordering plaintiff-appellant Republic of the Philippines to pay defendants-appellees the unpaid balance of the just compensation in the sum of P3,350,000.00 and the interest rate of 12% per annum on the amount deposited and on said unpaid balance.[2]

Hence, herein plaintiff-appellant comes before this Court via an ordinary appeal raising the following assignment of errors:

THE HONORABLE REGIONAL TRIAL COURT ERRED: (i) IN PEGGING THE JUST COMPENSATION AWARD FOR THE SUBJECT PROPERTY AT NINE THOUSAND PESOS (PHP 9,000.00) PER SQUARE METER FOR BEING EXCESSIVE AND CONTRARY TO EVIDENCE, EXISTING LAW AND JURISPRUDENCE; (ii) AWARDING AN INTEREST RATE OF TWELVE PERCENT (12%) PER ANNUM INSTEAD OF SIX PERCENT (6%) PER ANNUM AS PROVIDED BY BANGKO SENTRAL NG PILIPINAS CIRCULAR NO. 799; AND (iii) DIRECTING PLAINTIFF-APPELLANT TO PAY THE AMOUNT OF THREE THOUSAND PESOS (PHP 3,000.00) PER COMMISSIONER AS COMMISSIONER'S FEE.[3]

The appeal is meritorious.

The factual issue is whether or not the determination of just compensation made by the trial court was proper. We rule in the negative.

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It simply means the property's fair market value at the time of the filing of the complaint, or that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as price to be given and received therefor. The measure is not the taker's gain, but the owner's loss.[4] While market value may be one of the bases of determining just compensation, the same cannot be arbitrarily arrived at without considering the factors to be appreciated in arriving at the fair market value of the property, e.g., the cost of acquisition, the current value of like properties, its size, shape, location, as well as the tax declarations thereon.[5]

In *Republic of the Philippines vs. Asia Pacific Integrated Steel Corporation*,[6] the Supreme Court, citing Republic Act No. 8974 and various jurisprudential pronouncements, has elaborately delineated the several factors considered in the determination of just compensation in expropriation proceedings, viz:

SECTION 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale. – In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

- (a) The classification and use for which the property is suited;
- (b) The developmental costs for improving the land;
- (c) The value declared by the owners;
- (d) The current selling price of similar lands in the vicinity;
- (e) The reasonable disturbance compensation for the removal and/or demolition of certain improvements on

the land and for the value of the improvements thereon;

(f) The size, shape or location, tax declaration and zonal valuation of the land;

(g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

(h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

In this case, the trial court considered only (a) and (d): (1) the classification of the subject property which is located in an area with mixed land use (commercial, residential and industrial) and the property's conversion from agricultural to industrial land, and (2) the current selling price of similar lands in the vicinity – the only factors which the commissioners included in their Report. It also found the commissioners' recommended valuation of P1,000.00 to P1,500.00 per square meter to be fair and just despite the absence of documentary substantiation as said prices were based merely on the opinions of bankers and realtors.

In *National Power Corporation vs. Manubay Agro-Industrial Development Corporation*, the recommended price of the city assessor was rejected by this Court. The opinions of the banks and the realtors as reflected in the computation of the market value of the property and in the Commissioners' Report, were not substantiated by any documentary evidence.

Similarly, in *National Power Corporation vs. Diato-Bernal*, this Court rejected the valuation recommended by court-appointed commissioners whose conclusions were devoid of any actual and reliable basis. The market values of the subject property's neighboring lots were found to be mere estimates and unsupported by any corroborative documents, such as sworn declarations of realtors in the area concerned, tax declarations or zonal valuation from the BIR for the contiguous residential dwellings and commercial establishments. Thus, We ruled that a commissioners' report of land prices which is not based on any documentary evidence is manifestly hearsay and should be disregarded by the court.

We find that the trial court did not judiciously determine the fair market value of the subject property as it failed to consider other relevant factors such as the zonal valuation, tax declarations and current selling price supported by documentary evidence. Indeed, just compensation must not be arrived at arbitrarily, but determined after an evaluation of different factors.

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. The word "just" is used to intensify the meaning of the word "compensation" and to convey thereby the idea that the equivalent to be rendered for the property to be taken shall be real, substantial, full, and ample. Such "just"-ness of the compensation can only be attained by using reliable and actual data as bases in fixing the value of the condemned property. Trial courts are required to be more circumspect in its evaluation of just compensation due the property owner, considering that eminent domain cases involve the expenditure of public funds.

We agree with the trial court that it was not bound by the assessment report of the commissioners and that it had the discretion to reject the same and substitute its own judgment on its value as gathered from the record, or it may accept the report/recommendation of the commissioners in toto and base its judgment thereon. However, the decision of the court must be based on all established rules, upon correct legal principles and competent evidence. The court is proscribed from basing its judgment on speculations and surmises. [Citations Omitted and Emphasis Supplied]

In the case at bench, the trial court in awarding the just compensation concluded that although the zonal valuation of the property in question is at P2,300.00 per square meter, its determination of P9,000.00 per square meter could be considered reasonable inasmuch as the location of the property subject of the present expropriation is only 136.12 meters away from Hobart Realty Development Corporation, the commercial value of said realty is pegged at P15,000.00 per square meter as specified in the March 16, 2010 Decision in Civil Case No. 15-v-08.

We find that the trial court did not judiciously determine the fair market value of the subject property as it failed to consider other relevant factors such as the: a) the character of the property in question as compared to Hobart Realty Development Corporation, b) the price of the land as manifested in the ocular findings, oral as well as documentary evidence presented and more importantly, c) the reasonable disturbance compensation for the removal and/or demolition of certain improvement on the land in light of the Judicial Affidavit of Ms. Zenaida Galvez,[7] one of the commissioners appointed by the RTC, declaring that there were several informal settlers in adjacent areas of the property sought to be expropriated in the construction of C-5 Northern Link Road Project, Segment 8.1 in Valenzuela City. As a matter of fact, the ascertainment made by the court a quo as to the classification and use for which said property is best suited is merely based on the self-serving statements of defendants-appellees. Indeed, just compensation must not be arrived at arbitrarily, but determined after an evaluation of different factors.[8]

Moreover, the trial court simply gave the total amount of just compensation due to the property owner ascertained by the commissioners it appointed without laying down the basis thereof nor delineating the commissioners' assessment report on the matter. Thus, there is no way to determine whether the adjudged just compensation was based on competent evidence. For this reason alone, a remand of the case to the trial court for proper determination of just compensation is in order, as emphatically enunciated in *Republic of the Philippines vs. Court of Appeals, et al.*[9] In *National Power Corporation vs. Bongbong*,[10] the Supreme Court held that although the determination of just compensation lies within the trial court's discretion, it should not be done arbitrarily or capriciously. The decision of the trial court must be based on all established rules, correct legal principles, and competent evidence. The court is proscribed from basing its judgment on speculations and surmises.[11]

Finally, in the absence of proof that there was delay on the part of the Republic in the partial payment of the just compensation, this Court cannot impose an interest rate thereof. The Supreme Court has allowed the grant of interest in expropriation cases where there is delay in the payment of just compensation.[12] To reiterate, it is explicit from *Land Bank of the Philippines vs. Wycoco* that interest on the just compensation is imposed only in case of delay in the payment thereof which must be sufficiently established.[13] Furthermore, the ascertainment of the imposition of the interest rate and the commissioner's fees must be held in abeyance in view of the fact that the instant case would have to be remanded to the court a quo for the re-determination of a correct and substantiated just compensation.

WHEREFORE, premises considered, the instant appeal is GRANTED. Accordingly, the December 3, 2013 Decision of Valenzuela City, Metro Manila Regional Trial Court, Branch 172 in Civil Case No. 266-v-07 is hereby REVERSED and SET ASIDE. This case is remanded to the trial court for the proper determination of just compensation in conformity with this Decision.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Sadang, JJ., concur.

[1] Records, pp. 388-391; Rollo, pp. 12-15.

[2] Supra.

[3] Rollo, p. 30.

[4] National Power Corporation vs. Tiangco, G.R. No. 170846, February 6, 2007 as cited in National Power Corporation vs. Bagui, et al., G.R. No. 164964, October 17, 2008.

[5] Land Bank of the Philippines vs. Wycoco as cited in National Power Corporation vs. Bagui, et al., *ibid*.

[6] G.R. No. 192100, March 12, 2014.

[7] Records, pp. 389-390.

[8] Republic of the Philippines vs. Asia Pacific Integrated Steel Corporation, *ibid*.

[9] G.R. No. 160379, August 14, 2009.

[10] G.R. No. 164079, April 3, 2007, 520 SCRA 290, 304 as cited in Republic of the Philippines vs. Court of Appeals, et al., *ibid*.

[11] Manansan vs. Republic, G.R. No. 140091, August 10, 2006, 498 SCRA 348, 363 citing Manila Railway Company vs. Fabie, 17 Phil. 206, 209 (1910) as cited in Republic of the Philippines vs. Court of Appeals, et al., *ibid*.

[12] Land Bank of the Philippines vs. Santiago, Jr., G.R. No. 182209, October 3, 2012.

[13] 464 Phil. 83, 97 (2004) as cited in Apo Fruits Corporation, et al. vs. Court of Appeals, et al., G.R. No. 164195, December 4, 2009.

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