

**DALMACIO URTULA, ET AL., PLAINTIFFS-APPELLANTS, VS.
REPUBLIC OF THE PHILIPPINES, (REPRESENTED BY THE LAND
TENURE ADMINISTRATION), DEFENDANT-APPELLANT.**

G.R. No. L-22061. January 31, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeals, by both the plaintiffs Dalmacio Urtula, et al. and the defendant Republic of the Philippines, represented by the Land Tenure Administration, now Land Authority, from a judgment of the Court of First Instance of Camarines Sur, in its Civil Case No. 5306, ordering the defendant to pay interest upon a sum determined by final judgment as compensation for the property expropriated in a previous case of eminent domain between the same parties, Civil Case No. 3837 of the same court.

The facts, as stipulated by the parties, and as found by the court a quo are as follows:

The Court of First Instance had rendered judgment on 16 November 1957 in its Civil Case No. 3837, for the expropriation of the Hacienda Quitang, owned by Dalmacio Urtula by the Republic of the Philippines, for the sum of P213,094.00, "and upon making the payment the plaintiff shall take full possession of the land." The Republic appealed the decision to the Court of Appeals, raising the sole issue of whether the amount fixed by the trial court was a just compensation for the property. While the appeal was pending before the Court of Appeals, the Republic of the Philippines deposited on 29 July 1958, with the Philippine National Bank the sum of P117,690.00 as provisional value of the land, in accordance with an order of the trial court dated 3 January 1958, and this deposit was withdrawn by Dalmacio Urtula in August of 1958.

Thereafter, on 10 September 1958, the Court of Appeals granted the Republic's petition to be placed in possession of the property; and under a writ of possession issued by the provincial sheriff of the province, the Land Tenure Administration took actual physical possession of the land on 11 October 1958.

Subsequently, the Court of Appeals found that the issue between the parties was purely one of law and thereby elevated the appeal to the Supreme Court. This Court rendered judgment thereon on 29 November 1960 in case No. L-16028, affirming the appealed judgment of the Court of First Instance, without modification.

The Supreme Court had affirmed, as aforesaid, the decision of the trial court fixing the amount of just compensation for P213,094.00; thus, at the time the decision became final, the balance still due was P95,404.00. Of this balance, the Republic paid Dalmacio Urtula the sum of P5,404.00 on 17 April 1961; but on the same day, Urtula deposited same amount with the Land Tenure Administration in payment of taxes and penalties for prior years up to 1958 on the expropriated land and for the surveyor's fee for segregating one hectare donated by condemnee Urtula for a school site. On liquidation at a later date, an excess in the amount of P423.38 was found, and the Republic refunded this excess to Urtula on 25 September 1961. On 3 May 1961, the Republic paid the remaining balance of P90,000.00.

The taxes due and unpaid, including penalties, on the land for the years 1959, 1960 and 70% of 1961 were computed at a total of P3,534.23 as of 28 February 1962. The interest of 6% on P95,404.00 from 11 October 1958, the date when the condemnor Republic took possession of the land to May 1961, when the final balance was paid to Urtula was also computed at a total of P14,633.52.

On 26 January 1961, the plaintiff demanded payment of the said interest (P14,633.52) but the defendant Republic refused, on the ground that no payment of interest had been ordered in the decision in Civil Case No. 3837, the expropriation proceedings, or in the affirmatory decision of the Supreme Court in G. R. No. L-16028.

The parties further stipulated as a fact that the plaintiff had agreed to pay his counsel 10% of the amount recoverable from the defendant, as attorney's fees.

Upon the foregoing stipulated facts, the trial court rendered judgment for plaintiff Urtula and ordered the defendant Republic to pay P14,633.52 as interest on the balance of P95,404.00 from 11 October 1958 to 3 May 1961 and to pay the costs, but denied the plaintiff's claims on the land taxes[1] and attorney's fees.

Both parties were not satisfied with the decision; hence, both appealed to this Court.

Against the defendant Republic's defense that the final judgment in the expropriation case, which did not provide for interest, operates to bar the present case, by *res judicata*, the theory of plaintiff Urtula is that there is no identity of causes of action in the said cases.

Thus, Urtula relates his predicaments as follows: that while the expropriation case was pending before the trial court, he could not claim interest because the Republic had not as yet taken possession of the land and the rule is that interest accrues from the time of such taking; but when the Republic took possession, the case was already on appeal and he could not ask relief because he was not an appellant nor could he raise the issue of interest for the first time on appeal, aside from his being impeded by the rule that proof with respect to the taking of possession had to be adduced before the trial court, not the appellate court.

Urtula's dilemma lies in his mistaken concept of the nature of the interest that he failed to claim in the expropriation case and which he now claims in this separate case. Said interest is not contractual, nor based on delict or quasi-delict, but one that -

"runs as a matter of law and follows as a matter of course from the right of the landowner to be placed in as good a position as money can accomplish, as of the date of the taking" (30 C.J.S. 230)

Understood as such, Urtula, as defendant in the expropriation case, could have raised the matter of interest before the trial court even if there had been no actual taking yet by the Republic and the said court could have included the payment of interest in its judgment but conditioned upon the actual taking, because the rate of interest upon the amount of just compensation (6%) is a known factor, and it can reasonably be expected that at some future time, the expropriator would take possession of the property, though the date be not fixed. In this way, multiple suits would be avoided. Moreover, nothing prevented appellee from calling the attention of the appellate courts (even by motion to reconsider before judgment became final) to the subsequent taking of possession by the condemnor, and asking for allowance of interest on the indemnity, since that followed the taking as a matter of course, and raised no issue requiring remand of the records to the Court of origin.

As the issue of interest could have been raised in the former case but was not raised, *res judicata* blocks the recovery of interest in the present case. (*Tejedor vs. Palet*, 61 Phil. 494; *Phil. Engineering Corp., et al. vs. Ceniza, etc., et al.*, L-17834, 29 Sept. 1962) It is settled that a former judgment constitutes a bar, as between the parties, not only as to matters expressly adjudged, but all matters that could have been adjudged at the time (Rule 39, sec. 49; *Corda vs. Maglinti*, L-17476, Nov. 30, 1961; *Rodriguez vs. Tan*, 48 Off. Gaz. 3330) It follows that interest

upon the unrecoverable interest, which plaintiff also seeks, cannot, likewise, be granted.

It is not amiss to note that Section 3 of Rule 67 of the Revised Rules of Court (Sec. 4, Rule 69 of the old Rules), in fact, directs the defendant in an expropriation case to "present in a single motion to dismiss or for other appropriate relief, all of his objections and defenses x x x" and if not so presented "are waived." (emphasis supplied)[2] As it is, the judgment allowing the collection of interest, now under appeal, in effect amends the final judgment in the expropriation case, a procedure abhorrent to orderly judicial proceedings.

The Republic took possession on 11 October 1958. From this date, therefore, the owner, while retaining the naked title, was deprived of the benefits from the land and it is just and fair that the realty taxes for the years 1959 and onward should be borne by the entity exercising the right of eminent domain. (*City of Manila vs. Roxas*, 60 Phil. 215).

Costs in cases of eminent domain, except those of rival claimants litigating their claims, are charged against the plaintiff. (Sec. 12, Rule 67, Rules of Court; Sec. 13, Rule 67 of the old Rules) But the present case is not one of eminent domain but an ordinary civil action where the Republic of the Philippines is a party. Section 1 of Rule 142 provides that no costs shall be allowed against it, unless otherwise provided by law. No provision of law providing the contrary has been cited; hence, costs should be charged against plaintiff Urtula.

FOR THE FOREGOING REASONS, the appealed judgment is reversed and the case dismissed, with costs against the plaintiffs Dalmacio Urtula, et al.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] The defendant Republic was the one that prayed, in a counterclaim, for the payment of land taxes. (Rec. on App., pp. 21-23)

[2] Such a provision was not provided in the old Code of Civil Procedure, Act 190.

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