

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE TOLL
REGULATORY BOARD, PLAINTIFF-APPELLANT, VS. C.C. UNSON
COMPANY, INC., DEFENDANT-APPELLEE.**

Ponente: VILLON, J.

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VILLON, J.:

This is an ordinary appeal under Rule 41, Section 2 (a) of the 1997 Rules of Civil Procedure from the decision dated December 23, 2009[1] and order dated July 6, 2010[2] of the Regional Trial Court (RTC), Fourth Judicial Region, Branch 35, Calamba City in Civil Case No. 3818-05-C, entitled “Republic of the Philippines, represented by the Toll Regulatory Board, Plaintiff, versus C.C. Unson Company, Inc., Defendant” for Expropriation.

The relevant underlying factual and procedural antecedents of the case are hardly in dispute.

On August 3, 2005, plaintiff-appellant Republic of the Philippines (appellant), through the Toll Regulatory Board (TRB), instituted[3] an expropriation proceeding against defendant-appellee C.C. Unson Company, Inc. (appellee). The subjects of expropriation were two properties owned by appellee and covered by Transfer Certificate of Title (TCT) No. T-57646[4] and TCT No. T-51596.[5] Appellant alleged that the areas affected by the expropriation had a zonal value of P2,250.00 per square meter. Accordingly, appellee was duly served with summons.[6] Appellee then filed its Answer[7] on September 22, 2005. Following the joinder of issues the case was set for pre-trial.[8]

On November 15, 2006, appellant filed its Amended Complaint[9] along with a Motion for Leave to File Amended Complaint. The said motion was granted by the court a quo. In its Amended Complaint, appellant alleged that instead of the earlier valuation of P2,250.00 per square meter, the property affected by the expropriation which was covered by TCT No. T-51596 had a zonal value of only P1,050.00 per square meter.

On November 27, 2006, the trial court terminated the pre-trial conference and ordered that the case be heard on the merits.[10]

On December 4, 2006, appellee filed an Urgent Twin Motion to Release Initial Deposit and to Order Plaintiff to Make Additional Deposit.[11] In the said pleading, appellee prayed that the amount of P37,549,350.00 earlier deposited by appellant, representing part of the valuation of the expropriated areas, be released to it. Likewise, appellee prayed for an additional deposit of P20,336,400.00, insisting on the initial zonal valuation of the property covered by TCT No. T-51596 at P2,250.00 per square meter. On December 20, 2006, appellant filed an Urgent Ex-Parte Motion for Issuance of Writ of Possession in view of the deposit of the said amount of P37,549,350.00 with the Development Bank of the Philippines (DBP).[12]

On December 21, 2006, the court a quo issued an order[13] directing DBP to turn over the amount of P37,549,350.00 to appellee. The trial court likewise ordered the issuance of a writ of possession in favor of appellant. However, the trial court's resolution on the Motion to Order Plaintiff to Make Additional Deposit was held in abeyance pending appellant's comment thereto. Thereafter, appellant filed its opposition[14] to the said

Motion. Then, the court a quo issued an order^[15] dated June 15, 2007 directing appellant to pay appellee the additional amount of P20,336,400.00, which it did.

On July 19, 2009, the court a quo appointed the members of the Board of Commissioners which was constituted to assist it in determining the just compensation of the properties subject of expropriation. The board was composed of 1) Atty. Allan S. Hilbero (Hibero), as Chairman; 2) Mr. Antonio B. Amata (Amata), who was nominated by appellant; and 3) Engr. Salvador D. Oscianas, Jr. (Oscianas), who was nominated by appellee.^[16] The parties then filed their position papers,^[17] in support of their respective postures on the proper valuation of the subject properties.

The Commissioners' Report dated November 25, 2009^[18] was then submitted to the trial court. Each of the members of the Board of Commissioners made his own recommendation on just compensation, thus: Hibero recommended the amount at P3,000.00 per square meter; Amata pegged just compensation at P2,250.00 per square meter; and Oscianas proposed the amount of P4,400.00 per square meter.

On December 23, 2009, the court a quo rendered its assailed decision fixing the amount of just compensation at P3,500.00 per square meter. The dispositive portion of the decision reads:

“WHEREFORE, with the foregoing premises, this Court renders judgment fixing the amount of Three Thousand Five Hundred (Php3,500.00) Pesos per square meter as the just compensation for the properties of defendant corporation herein. Accordingly, the Republic of the Philippines, represented by the Toll Regulatory Board is ordered to pay the defendant corporation the amount of Php32,158,750.00 which represents the difference between the Php57,885,750.00 received by the defendant as provisional payment for the 25,727 sq. meter lots owned by defendant corporation and the amount of Php90,044,500.00 computed at the rate of Php3,500.00 per square meter.

Further, the defendants are hereby ordered to pay Commissioner's fee of Ten Thousand Pesos (P10,000.00) each Commissioner.

SO ORDERED.”^[19]

Appellant moved for reconsideration of the said decision but the same was denied in the assailed order dated July 6, 2010.

Hence, this appeal appellant contending that:

I.

THE TRIAL COURT'S RULING ON JUST COMPENSATION DUE DEFENDANT-APPELLEE IS ERRONEOUS.

II.

PLAINTIFF-APPELLANT WAS DENIED DUE PROCESS WHEN IT WAS NOT ALLOWED TO FILE ITS COMMENT OR OPPOSITION TO THE COMMISSIONER'S REPORT DATED NOVEMBER 25, 2009.

The appeal is bereft of merit.

Appellant contends that the court a quo erred when it considered the highest and best use of the subject parcels of land in its valuation; and that the trial court likewise erred in holding that appellant must further compensate appellee for the remaining area thereof, consisting of 750 square meters which was not subject of the expropriation proceedings.

Appellant's argument is untenable.

One of the basic principles enshrined in our Constitution is that no person shall be deprived of his private property without due process of law; and in expropriation cases, an essential element of due process is that there must be just compensation whenever private property is taken for public use.[20] The constitutional limitation of “just compensation” is considered to be the sum equivalent to the market value of the property, broadly described to be the price fixed by the seller in open market in the usual and ordinary course of legal action and competition or the fair value of the property as between one who receives, and one who desires to sell, it fixed at the time of the actual taking by the government.[21]

In expropriation proceedings, 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. The constitutional limitation of just compensation is considered to be a sum equivalent to the market value of the property, broadly defined as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition; or the fair value of the property; as between one who receives and one who desires to sell it, fixed at the time of the actual taking by the government.[22] It is settled that the determination of just compensation is a judicial function.[23] The parties may, however, properly present and introduce evidence bearing on the properties' fair market value.[24]

Section 5 of Republic Act (RA) No. 8974 provides:

“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 improvement on the land and for the value of 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 acquired from them by the government , and thereby rehabilitate themselves as early as possible.”

Contrary to appellant's belief, “highest and best use” of the land does not equate to “potential use.” Rather, it refers to Sec. 5 (a) of RA No. 8974 or the classification and use for which the property is suited. As defined by the commissioners in this case:

“Highest and Best Use is defined as the most profitable likely use of the property. This opinion maybe (sic) based on the highest and most profitable continuous use to which the property is adapted and needed, or that use of land which may reasonably be expected to produce the greatest net return to land over a fiven (sic)

period of time.”[25]

Thus, highest and best use is the use of the land where it would be best suited in terms of profitability and utility which, as found by the commissioners and the court a quo, is industrial development. We find no cogent reason to hold otherwise.

Moreover, contrary to appellant's belief, the trial court took into account the other factors in determining just compensation pursuant to Sec. 5 of RA No. 8974. Appellant placed too much premium on the value of lots adjacent and similar to the subject parcels of land. However, there is no evidence to show that the said lots are similar to the property under expropriation.

Individually, the indices enumerated in Sec. 5 of RA 8974 cannot be the sole bases of “just compensation” in expropriation cases.[26] Nevertheless, taken as a whole, as in this case, such determination, in the absence of any irregularity, must be given great weight and respect since what is involved is the opinion of disinterested experts.

The purpose of the court in considering the commissioners' report is to satisfy itself that just compensation will be made to the defendant by its final judgment on the matter, and to fulfill its duty in this respect, the court will be obliged to exercise its discretion in dealing with the report as the particular circumstances of the case may require. Rule 67, Section 8 of the 1997 Rules of Civil Procedure clearly shows that the trial court has the discretion to act upon the commissioners' report in any of the following ways: (1) it may accept the same and render judgment therewith; or (2) for cause shown, it may [a] recommit the report to the commissioners for further report of facts; or [b] set aside the report and appoint new commissioners; or [c] accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.[27] Here, We find no reversible error in the RTC's determination of just compensation, having found that the commissioners substantially performed their assigned duties in accordance with law.

Well-settled is the rule that conclusions and findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence,[28] unless there appears in the record some fact or circumstance of weight and influence which has been overlooked, or the significance of which has been misinterpreted, that if considered would have affected the result of the case.[29] We find no compelling reason to deviate from this rule.

Withal, the trial court took cognizance of the report of Oscianas to the effect that the remaining portion of appellee's lot not subject of expropriation can no longer be used for any business purpose, viz.:

“This Court likewise takes cognisance (sic) on the expert opinion of Engr. Oscianas Jr., a highly qualified appraiser relative to the consequential damages suffered by the defendant corporation as a result of the on going (sic) expropriation proceedings. Based on their ocular inspection and the other documents attached to the records of this case, this Court agrees with the position of the defendant corporation that the remaining areas left to the latter will be practically unutilizable (sic). This conclusion is arrived at because what was left to the defendant after the taking of the properties are two dangling lots with irregular shapes which can no longer be utilized for any business purpose by the defendant corporation. In fact, even if these lots are sold by the defendant corporation, there will be no takers because the remaining lots have become practically useless. Worse, the land owner (sic) will be required to pay taxes for the remaining lots as industrial when these lots can no longer be utilized for industrial purposes.”[30] (emphasis ours)

In the case of *National Power Corporation v. Court of Appeals*,[31] the Supreme Court declared that:

“xxx when possession of the land cannot be turned over to the landowner because it is neither convenient nor feasible anymore to do so, the only remedy available to the aggrieved landowner is to demand payment of just

compensation.

In this case, we agree with the trial and appellate courts that it is no longer possible and practical to restore possession of the Property to Pobre. The Property is no longer habitable as a resort-subdivision. The Property is worthless to Pobre and is now useful only to NPC. Pobre has completely lost the Property as if NPC had physically taken over the entire 68,969 square-meter Property.”

Indeed, there is sufficient evidence to show that the expropriation of the subject property resulted in a complete alteration of the shape of appellee's remaining land to the extent of 750 square meters, or Lot 6-A[32] of Psu-4199, such that the same has been rendered not feasible for appellee's intended purposes. In the same manner as the above illustration, We hold that the said 750 square meter portion of the property has entirely lost its value as if the TRB had physically taken over it. Hence, it is only just and proper that appellee be properly compensated therefor.

Appellant further contends that it was denied due process when the court a quo did not allow it to file a comment or opposition to the November 25, 2009 Commissioners' Report. Appellant maintains that, pursuant to Section 7, Rule 67, it had ten (10) days from receipt of the said report, or until December 24, 2009, to file any comment or opposition thereto.

Appellant's argument is unavailing.

From time to time, a request for extension becomes necessary when an advocate needs more time to study the client's position. Generally, such request is addressed to the sound discretion of the court. Lawyers who, for one reason or another, decide to dispense with the filing of the required pleading, should promptly manifest this intent to the court. It is necessary for them to do so in order to prevent delay in the disposition of the case. Those who file motions for extension in bad faith misuse the legal process and obstruct justice.[33]

Appellant filed two (2) motions for extension of time to file comment, i.e., on December 21, 2009[34] and January 25, 2010.[35] The Comment to the Commissioners' Report was finally filed on February 22, 2010.[36]

The evidence before us show that appellant, in its December 21, 2009 Motion for Extension of Time to File Comment, stated as ground in support thereof, that:

“2. The OSG has sought the assistance of the Department of Public Works and Highways (“DPWH”) in evaluating the findings in the Commissioner's Report, *supra*, considering that the same are technical matters that are within the expertise and competence of the DPWH.

3. Pending the DPWH's response on the matter, the OSG is constrained to seek an extension of time for the submission of the required comment.”[37] (emphasis ours)

The records show, however, that it was only in a letter[38] dated January 6, 2010 that appellant sought the DPWH's assistance. Thus, in appellant's January 25, 2010 Motion for Additional Extension of Time to File Comment, it informed the court a quo that:

“In a letter dated 06 January 2010 (copy attached as Annex “A”), the OSG sought the assistance of the Department of Public Works and Highways (“DPWH”) in evaluating the findings in the Commissioner's Report,”[39] (emphasis ours)

Thus, the Comment to the Commissioner's Report actually filed only on February 22, 2010, or almost two months after December 24, 2009, evidently shows no purpose but to impede the speedy disposition of this case.

Jurisprudence holds that a lawyer who requests an extension must do so in good faith and with a genuine intent to file the required pleading within the extended period. In granting the request, the court acts on the presumption

that the applicant has a justifiable reason for failing to comply with the period allowed. Without this implied trust, the motion for extension will be deemed to be a mere ruse to delay or thwart the appealed decision or the review of the Commissioners' Report as in this case.[40]

Where one is accorded an opportunity to be heard, either through oral arguments or pleadings, there is no denial of procedural due process. Due process was designed to afford an opportunity to be heard; an oral hearing need not always be held. Moreover, this constitutional mandate is deemed satisfied if the pleader is granted an opportunity to seek reconsideration of the action or ruling complained of.[41]

Well-settled is the rule that the essence of due process is simply an opportunity to be heard.[42] In simple terms, the constitutional guarantee of due process requires that a litigant be given "a day in court." It is the availability of the opportunity to be heard that determines whether or not due process was violated. A litigant may or may not avail of the opportunity to be heard but as long as such was made available to him/her, there is no violation of the due process clause.[43]

The parties in this case were afforded every opportunity to ventilate their concerns. In fact, they were informed of every step undertaken by the commissioners. They were able to attend the ocular inspection of the property subject of expropriation on August 17, 2009, file their respective position papers on just compensation,⁴⁴ and attend a hearing before the commissioners on November 12, 2009. All told, appellant, having been given the opportunity to be heard during the entire proceedings, was never deprived of due process.

WHEREFORE, in the light of the foregoing, the decision dated December 23, 2009 and order dated July 6, 2010 of Branch 35, RTC of Calamba City in Civil Case No. 3818-05-C are hereby AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court,

Macalino, F.S., and Peralta, Jr., E.B., JJ., concur.

[*] Acting Junior Member per Office Order No. 105-14-RSF dated March 17, 2014.

[1] Rollo, pp. 14-21; penned by Hon. Romeo C. De Leon, Presiding Judge.

[2] Rollo, p. 22; penned by Hon. Rommel O. Baybay, Acting Presiding Judge.

[3] Records, Vol. I, pp. 1-7.

[4] Records, Vol. I, p. 11.

[5] Records, Vol. I, p. 17.

[6] Records, Vol. I, p. 29

[7] Records, Vol. I, pp. 31-33.

[8] Records, Vol. I, pp. 34-35.

[9] Records, Vol. I, pp. 60-66.

- [10] Records, Vol. I, p. 88.
- [11] Records, Vol. I, pp. 89-91.
- [12] Records, Vol. I, pp. 97-104.
- [13] Records, Vol. I, pp. 110-112.
- [14] Records, Vol. I, pp. 119-124.
- [15] Records, Vol. I, pp. 166-168.
- [16] Records, Vol. I, pp. 339-340.
- [17] Records, Vol. II, pp. 35-46 (appellant) and pp. 1-6 (appellee)
- [18] Records, Vol. II, pp. 58-67.
- [19] Rollo, p. 21.
- [20] Republic of the Philippines v. Vicente G. Lim, G.R. No. 161656, June 29, 2005.
- [21] Republic of the Philippines v. Court of Appeals, G.R. No. 146587, July 2, 2002.
- [22] Republic of the Philippines v. Rural Bank of Kabacan, Inc., G. R. No. 185124, January 25, 2012.
- [23] Land Bank of the Philippines v. Glenn Y. Escandor, G.R. No. 171685, October 11, 2010.
- [24] Capitol Steel Corporation v. Phividec Industrial Authority, G.R. No. 169453, December 6, 2006.
- [25] Records, Vol. I, p. 73.
- [26] Leca Realty Corporation v. Republic of the Philippines, G.R. No. 155605, September 27, 2006.
- [27] National Power Corporation v. Purefoods Corporation, G.R. No. 160725, September 12, 2008.
- [28] Magdiwang Realty Corporation v. Manila Banking Corporation, G.R. No. 195592, September 5, 2012.
- [29] S.C. Megaworld Corporation v. Engr. Luis U. Parada, G.R. No. 183804, September 11, 2013.
- [30] Rollo, p. 21.
- [31] G.R. No. 106804, August 12, 2004.
- [32] Records, Vol. I, p. 15.
- [33] Arsenia T. Bergonia v. Atty. Arsenio A. Merrera, A.C. No. 5024, February 20, 2003.
- [34] Records, Vol. II, pp. 86-90.
- [35] Records, Vol. II, pp. 113-118.
- [36] Records, Vol. II, pp. 119-133.
- [37] Records, Vol. II, p. 86.
- [38] Records, Vol. II, pp. 116-117.
- [39] Records, Vol. II, p. 113.
- [40] Ibid.

[41] Mercedes R. Gochan v. Virginia Gochan, G.R. No. 143089, February 27, 2003.

[42] Lima Land, Inc. v. Marlyn Cuevas, G.R. No. 169523, June 16, 2010.

[43] NASECO Guards Association-PEMA (NAGA-PEMA) v. National Service Corporation (NASECO), G.R. No. 165442, August 25, 2010.

[44] Records, Vol. II, pp. 35-46 and pp. 1-6.

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