

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT VS. CARMEN M. VDA. DE CASTELLVI, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-20620. August 15, 1974

Ponente: ZALDIVAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f95467a60326/>

ZALDIVAR, J.:

Appeal from the decision of the Court of First Instance of Pampanga in its Civil Case No. 1623, an expropriation proceeding.

Plaintiff-appellant, the Republic of the Philippines, (hereinafter referred to as the Republic) filed, on June 26, 1959, a complaint for eminent domain against defendant-appellee, Carmen M. vda. de Castellvi, judicial administratrix of the estate of the late Alfonso de Castellvi (hereinafter referred to as Castellvi over a parcel of land situated in the barrio of San Jose, Floridablanca, Pampanga, described as follows:

"A parcel of land, Lot No. 199-B Bureau of Lands Plan Swo-23666. Bounded on the NE by Maria Nieves Toledo-Gozun; on the SE by national road; on the SW by AFP reservation, and on the NW by AFP reservation. Containing an area of 759,299 square meters, more or less, and registered in the name of Alfonso Castellvi under TCT No. 13631 of the Register of Deeds of Pampanga x x x...";

and against defendant-appellee Maria Nieves Toledo-Gozun (hereinafter referred to as Toledo-Gozun),over two parcels of land described as follows:

"A parcel of land (Portion of Lot 1-B, Blk-1, Bureau of Lands Plan Psd, 26254. Bounded on the NE by Lot 3, on the SE by Lot 3; on the SW by Lot 1-B, Blk. 2 (equivalent to Lot 199-B Swo 23666; on the NW by AFP military reservation. Containing an area of 450,273 square meters, more or less, and registered in the name of Maria Nieves Toledo-Gozun under TCT No. 8708 of the Register of Deeds of Pampanga x x x", and

"A parcel of land (Portion of Lot 3, Blk-1, Bureau of Lands Plan Psd 26254. Bounded on the NE by Lot No. 3, on the SE by school lot and national road, on the SW by lot 1-B Blk 2 (equivalent to Lot 199-B Swo 23666), on the NW by Lot 1-B, Blk-1. Containing an area of 88,772 square meters, more or less, and registered in the name of Maria Nieves Toledo Gozun under TCT No. 8708 of the Register of Deeds of Pampanga, x x x".

In its complaint, the Republic alleged, among other things, that the fair market of the above-mentioned lands, according to the Committee on Appraisal for the Province of Pampanga, was not more than P2,000 per hectare, or a total market value of P259,669.10; and prayed, that the provisional value of the lands be fixed at P259,669.10, that the court authorizes plaintiff to take immediate possession of the lands upon deposit of that amount with the Provincial Treasurer of Pampanga; that the court appoints three commissioners to ascertain and report to the court the just compensation for the property sought to be expropriated, and that the court issues thereafter a final order of condemnation.

On June 29, 1959 the trial court issued an order fixing the provisional value of the lands at P259,669.10.

In her "motion to dismiss" filed on July 14, 1959, Castellvi alleged, among other things, that the land under her administration, being a residential land, had a fair market value of P15.00 per square meter, so it had a total market value of P11,389,485.00; that the Republic, through the Armed Forces of the Philippines, particularly the Philippine Air Force, had been, despite repeated demands, illegally occupying her property since July 1, 1956, thereby preventing her from using and disposing of it, thus causing her damages by way of unrealized profits. This defendant prayed that the complaint be dismissed, or that the Republic be ordered to pay her P15.00 per square meter, or a total of P11,389,485.00, plus interest thereon at 6% per annum from July 1, 1956 that the Republic be ordered to pay her P5,000,000.00 as unrealized profits and the costs of the suit.

By order of the trial court, dated August, 1959, Amparo C. Diaz, Dolores G. viuda de Gil, Paloma Castellvi, Carmen Castellvi, Rafael Castellvi, Luis Castellvi, Natividad Castellvi de Raquiza, Jose Castellvi and Consuelo Castellvi were allowed to intervene as parties defendants. Subsequently, Joaquin V. Gozun, Jr., husband of defendant Nieves Toledo Gozun, was also allowed by the court to intervene as a party defendant.

After the Republic had deposited with the Provincial Treasurer of Pampanga the amount of P259,669.10 the trial court ordered that the Republic be placed in possession of the lands. The Republic was actually placed in possession of the lands on August 10, 1959.[1]

In her "motion to dismiss", dated October 22, 1959, Toledo-Gozun alleged among other things, that her two parcels of land were residential lands, in fact a portion with an area of 343,303 square meters had already been subdivided into different lots for sale to the general public, and the remaining portion had already been set aside for expansion sites of the already completed subdivisions; that the fair market value of said lands was P15.00 per square meter, so they had a total market value of P8,085,675.00; and she prayed that the complaint be dismissed, or that she be paid the amount of P8,085,675.00, plus interest thereon at the rate of 6% per annum from October 13, 1959, and attorney's fees in the amount of P50,000.00.

Intervenors Jose Castellvi and Consuelo Castellvi in their answer, filed on February 11, 1960, and also intervenor Joaquin Gozun, Jr., husband of defendant Maria Nieves Toledo-Gozun, in his motion to dismiss, dated May 27, 1960, all alleged that the value of the lands sought to be expropriated was at the rate of P15.00 per square meter.

On November 4, 1959, the trial court authorized the Provincial Treasurer of Pampanga to pay defendant Toledo-Gozun the sum of P107,609.00 as provisional value of her lands.[2] On May 16, 1960 the trial court authorized the Provincial Treasurer of Pampanga to pay defendant Castellvi the amount of P151,859.80 as provisional value of the land under her administration, and ordered said defendant to deposit the amount with the Philippine National Bank under the supervision of the Deputy Clerk of Court. In another order of May 16, 1960 the trial Court entered an order of condemnation.[3]

The trial Court appointed three commissioners: Atty. Amadeo Yuzon, Clerk of Court, as commissioner for the court; Atty. Felicisimo G. Pamandan, counsel of the Philippine National Bank Branch at Floridablanca, for the plaintiff; and Atty. Leonardo F. Lansangan, Filipino legal counsel at Clark Air Base, for the defendants. The Commissioners, after having qualified themselves, proceeded to the performance of their duties.

On March 15, 1961 the Commissioners submitted their report and recommendation, wherein, after having determined that the lands sought to be expropriated were residential lands, they recommended unanimously that the lowest price that should be paid was P10.00 per square meter, for both the lands of Castellvi and Toledo-Gozun; that an additional P5,000.00 be paid to Toledo-Gozun for improvements found on her land; that legal interest on the compensation, computed from August 10, 1959, be paid after deducting the amounts already paid to the owners, and that no consequential damages be awarded.[4] The Commissioners' report was objected to by all the parties in the case — by defendants Castellvi and Toledo-Gozun, who insisted that the fair market value

of their lands should be fixed at P15.00 per square meter; and by the Republic, which insisted that the price to be paid for the lands should be fixed at P0.20 per square meter.[5]

After the parties-defendants and intervenors had filed their respective memoranda, and the Republic, after several extensions of time, had adopted as its memorandum its objections to the report of the Commissioners, the trial court, on May 26, 1961, rendered its decision[6], dispositive portion of which reads as follows:

"WHEREFORE, taking into account all the foregoing circumstances, and that the lands are titled, ... the rising trend of land values ..., and the lowered purchasing power of the Philippine peso, the court finds that the unanimous recommendation of the commissioners of ten (P10.00) pesos per square meter for the three lots of the defendants subject of this action is fair and just."

xxx xxx xxx

"The plaintiff will pay 6% interest per annum on the total value of the lands of defendant Toledo-Gozun since (sic) the amount deposited as provisional value from August 10, 1959 until full payment is made to said defendant or deposit therefor is made in court.

"In respect to the defendant Castellvi interest of 6% per annum will also be paid by the plaintiff to defendant Castellvi from July 1, 1956 when plaintiff commenced its illegal possession of the Castellvi land when the instant action had not yet been commenced to July 10, 1959 when the provisional value thereof was actually deposited in court, on the total value of the said (Castellvi) land as herein adjudged. The same rate of interest shall be paid from July 11, 1959 on the total value of the land herein adjudged minus the amount deposited as provisional value, or P151,859.80, such interest to run until full payment is made to said defendant or deposit therefor is made in court. All the intervenors having failed to produce evidence in support of their respective interventions, said interventions are ordered dismissed.

"The costs shall be charged to the plaintiff."

On June 21, 1961 the Republic filed a motion for a new trial and/or reconsideration, upon the grounds of newly-discovered evidence, that the decision was not supported by the evidence, and that the decision was against the law, against which motion defendants Castellvi and Toledo-Gozun filed their respective oppositions. On July 8, 1961 when the motion of the Republic for new trial and/or reconsideration was called for hearing, the Republic filed a supplemental motion for new trial upon the ground of additional newly-discovered evidence. This motion for new trial and/or reconsideration was denied by the court on July 12, 1961.

On July 17, 1961 the Republic gave notice of its intention to appeal from the decision of May 26, 1961 and the order of July 12, 1961. Defendant Castellvi also filed, on July 17, 1961, her notice of appeal from the decision of the trial court.

The Republic filed various ex-parte motions for extension of time within which to file its record on appeal. The Republic's record on appeal was finally submitted on December 6, 1961.

Defendants Castellvi and Toledo-Gozun filed not only a joint opposition to the approval of the Republic's record on appeal, but also a joint memorandum in support of their opposition. The Republic also filed a memorandum in support of its prayer for the approval of its record on appeal. On December 27, 1961 the trial court issued an order declaring both the record on appeal filed by the Republic, and the record on appeal filed by defendant Castellvi as having been filed out of time, thereby dismissing both appeals.

On January 11, 1962 the Republic filed a "motion to strike out the order of December 27, 1961 and for reconsideration", and subsequently an amended record on appeal, against which motion the defendants Castellvi and Toledo-Gozun filed their opposition. On July 26, 1962 the trial court issued an order, stating that "in the

interest of expediency, the questions raised may be properly and finally determined by the Supreme Court," and at the same time it ordered the Solicitor General to submit a record on appeal containing copies of orders and pleadings specified therein. In an order dated November 19, 1962, the trial court approved the Republic's record on appeal, as emended.

Defendant Castellvi did not insist on her appeal. Defendant Toledo-Gozun did not appeal.

The motion to dismiss the Republic's appeal was reiterated by appellees Castellvi and Toledo-Gozun before this Court, but this Court denied the motion.

In her motion of August 11, 1964, appellee Castellvi sought to increase the provisional value of her land. The Republic, in its comment on Castellvi's motion, opposed the same. This Court denied Castellvi's motion in a resolution dated October 2, 1964.

The motion of appellees, Castellvi and Toledo-Gozun, dated October 6, 1969, praying that they be authorized to mortgage the lands subject of expropriation, was denied by this Court on October 14, 1969.

On February 14, 1972, Attys. Alberto Cacnio, and Associates, counsel for the estate of the late Don Alfonso de Castellvi in the expropriation proceedings, filed a notice of attorney's lien, stating that as per agreement with the administrator of the estate of Don Alfredo de Castellvi they shall receive by way of attorney's fees, "the sum equivalent to ten per centum of whatever the court may finally decide as the expropriated price of the property subject matter of the case."

Before this Court, the Republic contends that the lower court erred:

1. In finding the price of P10 per square meter of the lands subject of the instant proceedings as just compensation;
2. In holding that the "taking" of the properties under expropriation commenced with the filing of this action;
3. In ordering plaintiff-appellant, to pay 6% interest on the adjudged value of the Castellvi property to start from July of 1956;
4. In denying plaintiff-appellant's motion for new trial based on newly discovered evidence.

In its brief, the Republic discusses the second error assigned as the first issue to be considered. We shall follow the sequence of the Republic's discussion.

1. In support of the assigned error that the lower court erred in holding that the "taking" of the properties under expropriation commenced with the filing of the complaint in this case, the Republic argues that the "taking" should be reckoned from the year 1947 when by virtue of a special lease agreement between the Republic and appellee Castellvi, the former was granted the "right and privilege" to buy the property should the lessor wish to terminate the lease, and that in the event of such sale, it was stipulated that the fair market value should be as of the time of occupancy; and that the permanent improvements amounting to more than half a million pesos constructed during a period of twelve years on the land, subject of expropriation, were indicative of an agreed pattern of permanency and stability of occupancy by the Philippine Air Force in the interest of national security.[7]

Appellee Castellvi, on the other hand, maintains that the "taking" of property under the power of eminent domain requires two essential elements, to wit: (1) entrance and occupation by condemnor upon the private property for more than a momentary or limited period, and (2) devoting it to a public use in such a way as to oust the owner

and deprive him of all beneficial enjoyment of the property. This appellee argues that in the instant case the first element is wanting, for the contract of lease relied upon provides for a lease from year to year; that the second element is also wanting, because the Republic was paying the lessor Castellvi a monthly rental of P445.58; and that the contract of lease does not grant the Republic the "right and privilege" to buy the premises "at the value at the time of occupancy." [8]

Appellee Toledo-Gozun did not comment on the Republic's argument in support of the second error assigned, because as far as she was concerned the Republic had not taken possession of her lands prior to August 10, 1959. [9]

In order to better comprehend the issues raised in the appeal, in so far as the Castellvi property is concerned, it should be noted that the Castellvi property had been occupied by the Philippine Air Force since 1947 under a contract of lease, typified by the contract marked Exh. 4-Castellvi, the pertinent portions of which read:

"CONTRACT OF LEASE

"This AGREEMENT OF LEASE MADE AND ENTERED into by and between INTESTATE ESTATE OF ALFONSO DE CASTELLVI, represented by CARMEN M. DE CASTELLVI, Judicial Administratrix . . . hereinafter called the LESSOR and THE REPUBLIC OF THE PHILIPPINES represented by MAJ. GEN. CALIXTO DUQUE, Chief of Staff of the ARMED FORCES OF THE PHILIPPINES, hereinafter called the LESSEE,

"WITNESSETH:

1. For and in consideration of the rentals hereinafter reserved and the mutual terms, covenants and conditions of the parties, the LESSOR has, and by these presents does, lease and let unto the LESSEE the following described land together with the improvements thereon and appurtenances thereof, viz:

'Un Terreno, Lote No. 27 del Plano de subdivision Psu 34752, parte de la hacienda de Campauit, situado en el Barrio de San Jose, Municipio de Floridablanca, Pampanga ... midiendo una extension superficial de cuatro millones once mil cuatrocientos treinta y cinco (4,001,435) [sic] metros cuadrados, mas o menos.

'Out of the above described property, 75.93 hectares thereof are actually occupied and covered by this contract.

'Above lot is more particularly described in TCT No. 1016, province of Pampanga . . .

of which premises, the LESSOR warrants that he/she/they/is/are the registered owner(s) and with full authority to execute a contract of this nature.

"2. The term of this lease shall be for the period beginning July 1, 1952 the date the premises were occupied by the PHILIPPINE AIR FORCE, AFP until June 30, 1953, subject to renewal for another year at the option of the LESSEE or unless sooner terminated by the LESSEE as hereinafter provided.

"3. The LESSOR hereby warrants that the LESSEE shall have quiet, peaceful and undisturbed possession of the demised premises throughout the full term or period of this lease and the LESSOR undertakes without cost to the LESSEE to eject all trespassers, but should the LESSOR fail to do so, the LESSEE at its option may proceed to do so at the expense of the LESSOR. The LESSOR further agrees that should he/she/they sell or encumber all or any part of the herein described premises during the period of this lease, any conveyance will be conditioned on the right of the LESSEE hereunder.

"4. The LESSEE shall pay to the LESSOR as monthly rentals under this lease the sum of FOUR HUNDRED FIFTY-FIVE PESOS & 58/100 (P455.58) x x x

"5. The LESSEE may, at anytime prior to the termination of this lease, use the property for any purpose or purposes and, at its own costs and expense make alteration, install facilities and fixtures and erect additions . . .

which facilities or fixtures x x x so placed in, upon or attached to the said premises shall be and remain property of the LESSEE and may be removed therefrom by the LESSEE prior to the termination of this lease. The LESSEE shall surrender possession of the premises upon the expiration or termination of this lease and if so required by the LESSOR, shall return the premises in substantially the same condition as that existing at the time same were first occupied by the AFP, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the LESSEE has no control excepted: PROVIDED, that if the LESSOR so requires the return of the premises in such condition, the LESSOR shall give written notice thereof to the LESSEE at least twenty (20) days before the termination of the lease and provided, further, that should the LESSOR give notice within the time specified above, the LESSEE shall have the right and privilege to compensate the LESSOR at the fair value or equivalent, in lieu of performance of its obligation, if any, to restore the premises. Fair value is to be determined as the value at the time of occupancy less fair wear and tear and depreciation during the period of this lease.

"6. The LESSEE may terminate this lease at any time during the term hereof by giving written notice to the LESSOR at least thirty (30) days in advance x x x

"7. The LESSEE should not be responsible, except under special legislation for any damages to the premises by reason of combat operations, acts of GOD, the elements or other acts and deeds not due to the negligence on the part of the LESSEE.

"8. This LEASE AGREEMENT supersedes and voids any and all agreements and undertakings, oral or written, previously entered into between the parties covering the property herein leased, the same having been merged herein. This AGREEMENT may not be modified or altered except by instrument in writing only duly signed by the parties."[10]

It was stipulated by the parties, that "the foregoing contract of lease (Exh. 4, Castellvi) is 'similar in terms and conditions, including the date', with the annual contracts entered into from year to year between defendant Castellvi and the Republic of the Philippines (p. 17, t.s.n., Vol. III)".[11] It is undisputed, therefore, that the Republic occupied Castellvi's land from July 1, 1947, by virtue of the above-mentioned contract, on a year to year basis (from July 1 of each year to June 30 of the succeeding year) under the terms and conditions therein stated.

Before the expiration of the contract of lease on June 30, 1956 the Republic sought to renew the same but Castellvi refused. When the AFP refused to vacate the leased premises after the termination of the contract, on July 11, 1956, Castellvi wrote to the Chief of Staff, AFP, informing the latter that the heirs of the property had decided not to continue leasing the property in question because they had decided to subdivide the land for sale to the general public, demanding that the property be vacated within 30 days from receipt of the letter, and that the premises be returned in substantially the same condition as before occupancy (Exh. 5 — Castellvi). A follow-up letter was sent on January 12, 1957, demanding the delivery and return of the property within one month from said date (Exh. 6 — Castellvi). On January 30, 1957, Lieutenant General Alfonso Arellano, Chief of Staff, answered the letter of Castellvi, saying that it was difficult for the army to vacate the premises in view of the permanent installations and other facilities worth almost P500,000.00 that were erected and already established on the property, and that, there being no other recourse, the acquisition of the property by means of expropriation proceedings would be recommended to the President (Exhibit "7" — Castellvi).

Defendant Castellvi then brought suit in the Court of First Instance of Pampanga, in Civil Case No. 1458, to eject the Philippine Air Force from the land. While this ejectment case was pending, the Republic instituted these expropriation proceedings, and, as stated earlier in this opinion, the Republic was placed in possession of the lands on August 10, 1959. On November 21, 1959, the Court of First Instance of Pampanga, dismissed Civil Case

No. 1458, upon petition of the parties, in an order which, in part, reads as follows:

"1. Plaintiff has agreed, as a matter of fact has already signed an agreement with defendants, whereby she has agreed to receive the rent of the lands, subject matter of the instant case from June 30, 1956 up to 1959 when the Philippine Air Force was placed in possession by virtue of an order of the Court upon depositing the provisional amount as fixed by the Provincial Appraisal Committee with the Provincial Treasurer of Pampanga;

"2. That because of the above-cited agreement wherein the administratrix decided to get the rent corresponding to the rent from 1956 up to 1959 and considering that this action is one of illegal detainer and/or to recover the possession of said land by virtue of nonpayment of rents, the instant case now has become moot and academic and/or by virtue of the agreement signed by plaintiff, she has waived her cause of action in the above-entitled case."[12]

The Republic urges that the "taking" of Castellvi's property should be deemed as of the year 1947 by virtue of afore-quoted lease agreement. In American Jurisprudence, Vol. 26, 2nd edition, Section 157, on the subject of "Eminent Domain, we read the definition of "taking" (in eminent domain) as follows:

" 'Taking' under the power of eminent domain may be defined generally as entering upon private property for more than a momentary period, and, under the warrant or color of legal authority, devoting it to a public use, or otherwise informally appropriating or injuriously affecting it in such a way as substantially to oust the owner and deprive him of all beneficial enjoyment thereof."[13]

Pursuant to the aforecited authority, a number of circumstances must be present in the "taking" of property for purposes of eminent domain.

First, the expropriator must enter a private property. This circumstance is present in the instant case, when by virtue of the lease agreement the Republic, through the AFP, took possession of the property of Castellvi.

Second, the entrance into private property must be for more than a momentary period. "Momentary" means, "lasting but a moment; of but a moment's duration" (The Oxford English Dictionary, Volume VI, page 596); "lasting a very short time; transitory; having a very brief life; operative or recurring at every moment" (Webster's Third International Dictionary, 1963 edition.) The word "momentary" when applied to possession or occupancy of (real) property should be construed to mean "a limited period" — not indefinite or permanent. The aforecited lease contract was for a period of one year, renewable from year to year. The entry on the property, under the lease, is temporary, and considered transitory. The fact that the Republic, through the AFP, constructed some installations of a permanent nature does not alter the fact that the entry into the land was transitory, or intended to last a year, although renewable from year to year by consent of the owner of the land. By express provision of the lease agreement the Republic, as lessee, undertook to return the premises in substantially the same condition as at the time the property was first occupied by the AFP. It is claimed that the intention of the lessee was to occupy the land permanently, as may be inferred from the construction of permanent improvements. But this "intention" cannot prevail over the clear and express terms of the lease contract. Intent is to be deduced from the language employed by the parties, and the terms of the contract, when unambiguous, as in the instant case, are conclusive in the absence of averment and proof of mistake or fraud — the question being not what the intention was, but what is expressed in the language used. (City of Manila vs. Rizal Park Co., Inc., 53 Phil. 515, 525); Magdalena Estate, Inc. vs. Myrick, 71 Phil. 344, 348). Moreover, in order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered (Art. 1371, Civil Code). If the intention of the lessee (Republic) in 1947 was really to occupy permanently Castellvi's property, why was the contract of lease entered into on year to year basis? Why was the lease agreement renewed from year to year? Why did not the Republic expropriate this land of Castellvi in 1949 when, according to the Republic itself, it expropriated the

other parcels of land that it occupied at the same time as the Castellvi land, for the purpose of converting them into a jet air base?[14] It might really have been the intention of the Republic to expropriate the lands in question at some future time, but certainly mere notice — much less an implied notice — of such intention on the part of the Republic to expropriate the lands in the future did not, and could not, bind the landowner, nor bind the land itself. The expropriation must be actually commenced in court (*Republic vs. Baylosis, et al.*, 96 Phil. 461, 484).

Third, the entry into the property should be under warrant or color of legal authority. This circumstance in the "taking" may be considered as present in the instant case, because the Republic entered the Castellvi property as lessee.

Fourth, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected. It may be conceded that the circumstance of the property being devoted to public use is present because the property was used by the air force of the AFP.

Fifth, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property. In the instant case, the entry of the Republic into the property and its utilization of the same for public use did not oust Castellvi and deprive her of all beneficial enjoyment of the property. Castellvi remained as owner, and was continuously recognized as owner by the Republic, as shown by the renewal of the lease contract from year to year, and by the provision in the lease contract whereby the Republic undertook to return the property to Castellvi when the lease was terminated. Neither was Castellvi deprived of all the beneficial enjoyment of the property, because the Republic was bound to pay, and had been paying, Castellvi the agreed monthly rentals until the time when it filed the complaint for eminent domain on June 26, 1959.

It is clear, therefore, that the "taking" of Castellvi's property for purposes of eminent domain cannot be considered to have taken place in 1947 when the Republic commenced to occupy the property as lessee thereof. We find merit in the contention of Castellvi that two essential elements in the "taking" of property under the power of eminent domain, namely: (1) that the entrance and occupation by the condemnor must be for a permanent, or indefinite period, and (2) that in devoting the property to public use the owner was ousted from the property and deprived of its beneficial use, were not present when the Republic entered and occupied the Castellvi property in 1947.

Untenable also is the Republic's contention that although the contract between the parties was one of lease on a year to year basis, it was "in reality a more or less permanent right to occupy premises under the guise of lease with the 'right and privilege' to buy the property should the lessor wish to terminate the lease," and "the right to buy the property is merged as an integral part of the lease relationship ... so much so that the fair market value has been agreed upon, not as of the time of purchase, but as of the time of occupancy".[15] We cannot accept the Republic's contention that a lease on a year to year basis can give rise to a permanent right to occupy, since by express legal provision a lease made for a determinate time, as was the lease of Castellvi's land in the instant case, ceases upon the day fixed without need of a demand (Article 1669, Civil Code). Neither can it be said that the right of eminent domain may be exercised by simply leasing the premises to be expropriated (Rule 67, Section 1, Rules of Court). Nor can it be accepted that the Republic would enter into a contract of lease where its real intention was to buy or why the Republic should enter into a simulated contract of lease ("under the guise of lease", as expressed by counsel for the Republic) when all the time the Republic had the right of eminent domain, and could expropriate Castellvi's land if it wanted to without resorting to any guise whatsoever. Neither can we see how a right to buy could be merged in a contract of lease in the absence of any agreement between the parties to that effect. To sustain the contention of the Republic is to sanction a practice whereby in order to secure a low price for a land which the government intends to expropriate (or would eventually expropriate) it would first

negotiate with the owner of the land to lease the land (for say ten or twenty years) then expropriate the same when the lease is about to terminate, then claim that the "taking" of the property for the purposes of the expropriation be reckoned as of the date when the Government started to occupy the property under the lease, and then assert that the value of the property being expropriated be reckoned as of the start of the lease, in spite of the fact that the value of the property, for many good reasons, had in the meantime increased during the period of the lease. This would be sanctioning what obviously is a deceptive scheme, which would have the effect of depriving the owner of the property of its true and fair market value at the time when the expropriation proceedings were actually instituted in court. The Republic's claim that it had the "right and privilege" to buy the property at the value that it had at the time when it first occupied the property as lessee nowhere appears in the lease contract. What was agreed expressly in paragraph No. 5 of the lease agreement was that, should the lessor require the lessee to return the premises in the same condition as at the time the same was first occupied by the AFP, the lessee would have the "right and privilege" (or option) of paying the lessor what it would fairly cost to put the premises in the same condition as it was at the commencement of the lease, in lieu of the lessee's performance of the undertaking to put the land in said condition. The "fair value" at the time of occupancy, mentioned in the lease agreement, does not refer to the value of the property if bought by the lessee, but refers to the cost of restoring the property in the same condition as of the time when the lessee took possession of the property. Such fair value cannot refer to the purchase price, for purchase was never intended by the parties to the lease contract. It is a rule in the interpretation of contracts that "However general the terms of a contract may be, they shall not be understood to comprehend things that are distinct and cases that are different from those upon which the parties intended to agree" (Art. 1372, Civil Code).

We hold, therefore, that the "taking" of the Castellvi property should not be reckoned as of the year 1947 when the Republic first occupied the same pursuant to the contract of lease, and that the just compensation to be paid for the Castellvi property should not be determined on the basis of the value of the property as of that year. The lower court did not commit an error when it held that the "taking" of the property under expropriation commenced with the filing of the complaint in this case.

Under Section 4 of Rule 67 of the Rules of Court,[16] the — "just — compensation" is to be determined as of the date of the filing of the complaint. This Court has ruled that when the taking of the property sought to be expropriated coincides with the commencement of the expropriation proceedings, or takes place subsequent to the filing of the complaint for eminent domain, the just compensation should be determined as of the date of the filing of the complaint. (Republic vs. Philippine National Bank, L-14158, April 12, 1961, 1 SCRA 957, 961-962). In the instant case, it is undisputed that the Republic was placed in possession of the Castellvi property, by authority of the court, on August 10, 1959. The "taking" of the Castellvi property for the purposes of determining the just compensation to be paid must, therefore, be reckoned as of June 26, 1959 when the complaint for eminent domain was filed.

Regarding the two parcels of land of Toledo-Gozun, also sought to be expropriated, which had never been under lease to the Republic, the Republic was placed in possession of said lands, also by authority of the court, on August 10, 1959. The taking of those lands, therefore, must also be reckoned as of June 26, 1959, the date of the filing of the complaint for eminent domain.

2. Regarding the first assigned error — discussed as the second issue — the Republic maintains that, even assuming that the value of the expropriated lands is to be determined as of June 26, 1959, the price of P10.00 per square meter fixed by the lower court "is not only exorbitant but also unconscionable, and almost fantastic". On the other hand, both Castellvi and Toledo--Gozun maintain that their lands are residential lands with a fair market value of not less than P15.00 per square meter.

The lower court found, and declared, that the lands of Castellvi and Toledo-Gozun are residential lands. The finding of the lower court is in consonance with the unanimous opinion of the three commissioners who, in their report to the court, declared that the lands are residential lands.

The Republic assails the finding that the lands are residential, contending that the plans of the appellees to convert the lands into subdivision for residential purposes were only on paper, there being no overt acts on the part of the appellees which indicated that the subdivision project had been commenced, so that any compensation to be awarded on the basis of the plans would be speculative. The Republic's contention is not well taken. We find evidence showing that the lands in question had ceased to be devoted to the production of agricultural crops, that they had become adaptable for residential purposes, and that the appellees had actually taken steps to convert their lands into residential subdivisions even before the Republic filed the complaint for eminent domain.

In the case of *City of Manila vs. Corrales* (32 Phil. 82, 98) this Court laid down basic guidelines in determining the value of the property expropriated for public purposes. This Court said:

"In determining the value of land appropriated for public purposes, the same consideration are to be regarded as in a sale of property between private parties. The inquiry, in such cases, must be what is the property worth in the market, viewed not merely with reference to the uses to which it is at the time applied, but with reference to the uses to which it is plainly adapted, that is to say, What is it worth from its availability for valuable uses?

"So many and varied are the circumstances to be taken into account in determining the value of property condemned for public purposes, that it is practically impossible to formulate a rule to govern its appraisalment in all cases. Exceptional circumstances will modify the most carefully guarded rule, but, as a general thing, we should say that the compensation of the owner is to be estimated by reference to the use for which the property is suitable, having regard to the existing business or wants of the community, or such as may be reasonably expected in the immediate future. (*Miss. and Rum River Boom Co. vs. Patterson*, 98 U.S., 403)."

In expropriation proceedings, therefore, the owner of the land has the right to its value for the use for which it would bring the most in the market.[17] The owner may thus show every advantage that his property possesses, present and prospective, in order that the price it could be sold for in the market may be satisfactorily determined.[18] The owner may also show that the property is suitable for division into village or town lots.[19]

The trial court, therefore, correctly considered, among other circumstances, the proposed subdivision plans of the lands sought to be expropriated in finding that those lands are residential lots. This finding of the lower court is supported not only by the unanimous opinion of the commissioners, as embodied in their report, but also by the Provincial Appraisal Committee of the province of Pampanga composed of the Provincial Treasurer, the Provincial Auditor and the District Engineer. In the minutes of the meeting of the Provincial Appraisal Committee, held on May 14, 1959 (Exh. 13-Castellvi) We read in its Resolution No. 10 the following:

"3. Since 1957 the land has been classified as residential in view of its proximity to the air base and due to the fact that it was not being devoted to agriculture. In fact, there is a plan to convert it into a subdivision for residential purposes. The taxes due on the property have been paid based on its classification as residential land;"

The evidence shows that Castellvi broached the idea of subdividing her land into residential lots as early as July 11, 1956 in her letter to the Chief of Staff of the Armed Forces of the Philippines. (Exh. 5-Castellvi) As a matter of fact, the layout of the subdivision plan was tentatively approved by the National Planning Commission on September 7, 1956. (Exh. 8 Castellvi). The land of Castellvi had not been devoted to agriculture since 1947 when it was leased to the Philippine Army. In 1957 said land was classified as residential, and taxes based on its classification as residential had been paid since then (Exh. 13-Castellvi). The location of the Castellvi land

justifies its suitability for a residential subdivision. As found by the trial court, "It is at the left side of the entrance of the Basa Air Base and bounded on two sides by roads (Exh. 13-Castellvi), paragraphs 1 and 2, Exh. 12-Castellvi the poblacion, (of Floridablanca) the municipal building, and the Pampanga Sugar Mills are closed by. The barrio schoolhouse and chapel are also near (T.S.N. November 23, 1960, p. 68)"[20]

The lands of Toledo-Gozun (Lot 1-B and Lot 3) are practically of the same condition as the land of Castellvi. The lands of Toledo-Gozun adjoin the land of Castellvi. They are also contiguous to the Basa Air Base, and are along the road. These lands are near the barrio schoolhouse, the barrio chapel, the Pampanga Sugar Mills, and the poblacion of Floridablanca (Exhs. 1, 3 and 4-Toledo-Gozun). As a matter of fact, regarding lot 1-B it had already been surveyed and subdivided, and its conversion into a residential subdivision was tentatively approved by the National Planning Commission on July 8, 1959 (Exhs. 5 and 6 Toledo-Gozun). As early as June, 1958, no less than 32 man connected officers, non-commission officers, and enlisted men had requested Mr. and Mrs. Joaquin D. Gozun to open a subdivision on their lands in question (Exhs. 8, 8-A to 8-ZZ,-Toledo-Gozun).[21]

We agree with the findings, and the conclusions, of the lower court that the lands that are the subject of expropriation in the present case, as of August 10, 1959 when the same were taken possession of by the Republic, were residential lands and were adaptable for use as residential subdivisions. Indeed, the owners of these lands have the right to their value for the use for which they would bring the most in the market at the time the same were taken from them. The most important issue to be resolved in the present case relates to the question of what is the just compensation that should be paid to the appellees.

The Republic asserts that the fair market value of the lands of the appellees is P.20 per square meter. The Republic cites the case of Republic vs. Narciso, et al., L-6594, which this Court decided on May 18, 1956. The Narciso case involved lands that belonged to Castellvi and Toledo-Gozun, and to one Donata Montemayor, which were expropriated by the Republic in 1949 and which are now the site of the Basa Air Base. In the Narciso case this Court fixed the fair market value at P.20 per square meter. The lands that are sought to be expropriated in the present case being contiguous to the lands involved in the Narciso case, it is the stand of the Republic that the price that should be fixed for the lands now in question should also be at P.20 per square meter.

We can not sustain the stand of the Republic. We find that the price of P.20 per square meter, as fixed by this Court in the Narciso case, was based on the allegation of the defendants (owners) in their answer to the complaint for eminent domain in that case that the price of their lands was P2,000.00 per hectare and that was the price that they asked the court to pay them. This Court said, then, that the owners of the land could not be given more than what they had asked, notwithstanding the recommendation of the majority of the Commission on Appraisal — which was adopted by the trial court — that the fair market value of the lands was P3,000.00 per hectare. We also find that the price of P.20 per square meter in the Narciso case was considered the fair market value of the lands as of the year 1949 when the expropriation proceedings were instituted and at that time the lands were classified as sugar lands, and assessed for taxation purposes at around P400.00 per hectare, or P.04 per square meter.[22] While the lands involved in the present case, like the lands involved in the Narciso case, might have a fair market value of P.20 per square meter in 1949, it can not be denied that ten years later, in 1959, when the present proceedings were instituted, the value of those lands had increased considerably. The evidence shows that since 1949 those lands were no longer cultivated as sugar lands, and in 1959 those lands were already classified, and assessed for taxation purposes, as residential lands. In 1959 the land of Castellvi was assessed at P1.00 per square meter.[23]

The Republic also points out that the Provincial Appraisal Committee of Pampanga, in its resolution No. 5 of February 15, 1957 (Exhibit D), recommended the sum of P.20 per square meter as the fair valuation of the Castellvi property. We find that this resolution was made by the Republic the basis in asking the court to fix the

provisional value of the lands sought to be expropriated at P259,669.10, which was approved by the court.[24] It must be considered, however, that the amount fixed as the provisional value of the lands that are being expropriated does not necessarily represent the true and correct value of the land. The value is only "provisional" or "tentative", to serve as the basis for the immediate occupancy of the property being expropriated by the condemnor. The records show that this resolution No. 5 was repealed by the same Provincial Committee on Appraisal in its resolution No. 10 of May 14, 1959 (Exhibit 13-Castellvi). In that resolution No. 10, the appraisal committee stated that "The Committee has observed that the value of the land in this locality has increased since 1957 . . . ", and recommended the price of P1.50 per square meter. It follows, therefore, that, contrary to the stand of the Republic, that resolution No. 5 of the Provincial Appraisal Committee can not be made the basis for fixing the fair market value of the lands of Castellvi and Toledo-Gozun.

The Republic further relied on the certification of the Acting Assistant Provincial Assessor of Pampanga, dated February 8, 1961 (Exhibit K), to the effect that in 1950 the lands of Toledo-Gozun were classified partly as sugar land and partly as urban land, and that the sugar land was assessed at P.40 per square meter, while part of the urban land was assessed at P.40 per square meter and part at P.20 per square meter; and that in 1956 the Castellvi land was classified as sugar land and was assessed at P450.00 per hectare, or P.045 per square meter. We can not also consider this certification of the Acting Assistant Provincial Assessor as a basis for fixing the fair market value of the lands of Castellvi and Toledo-Gozun because, as the evidence shows, the lands in question, 1957, were already classified and assessed for taxation purposes as residential lands. The certification of the assessor refers to the year 1950 as far as the lands of Toledo-Gozun are concerned, and to the year 1956 as far as the land of Castellvi is concerned. Moreover, this Court has held that the valuation fixed for the purposes of the assessment of the land for taxation purposes can not bind the landowner where the latter did not intervene in fixing it.[25]

On the other hand, the Commissioners, appointed by the court to appraise the lands that were being expropriated, recommended to the court that the price of P10.00 per square meter would be the fair market value of the lands. The commissioners made their recommendation on the basis of their observation after several ocular inspections of the lands, of their own personal knowledge of land values in the province of Pampanga, of the testimonies of the owners of the land, and other witnesses, and of documentary evidence presented by the appellees. Both Castellvi and Toledo--Gozun testified that the fair market value of their respective land was at P15.00 per square meter. The documentary evidence considered by the commissioners consisted of deeds of sale of residential lands in the town of San Fernando and in Angeles City, in the province of Pampanga, which were sold at prices ranging from P8.00 to P20.00 per square meter (Exhibits 15, 16, 17, 18, 19, 20, 21, 22, 23-Castellvi). The commissioners also considered the decision in Civil Case No. 1531 of the Court of First Instance of Pampanga, entitled Republic vs. Sabina Tablante, which was an expropriation case filed on January 13, 1959, involving a parcel of land adjacent to the Clark Air Base in Angeles City, where the court fixed the price at P18.00 per square meter (Exhibit 14-Castellvi). In their report, the commissioners, among other things, said:

" . . . This expropriation case is specially pointed out, because the circumstances and factors involved therein are similar in many respects to the defendants' lands in this case. The land in Civil Case No. 1531 of this Court and the lands in the present case (Civil Case No. 1623) are both near the air bases, the Clark Air Base and the Basa Air Base respectively. There is a national road fronting them and are situated in a first-class municipality. As added advantage it may be said that the Basa Air Base land is very near the sugar mill at Del Carmen, Floridablanca, Pampanga, owned by the Pampanga Sugar Mills. Also just a stone's throw away from the same lands is a beautiful vacation spot at Palacol, a sitio of the town of Floridablanca, which counts with a natural swimming pool for vacationists on weekends. These advantages are not found in the case of the Clark Air Base. The defendants' lands are nearer to the poblacion of Floridablanca than Clark Air Base is nearer (sic) to the poblacion of Angeles, Pampanga.

"The deeds of absolute sale, according to the undersigned commissioners, as well as the land in Civil Case No. 1531 are competent evidence, because they were executed during the year 1959 and before August 10 of the same year. More specifically so the land at Clark Air Base which coincidentally is the subject matter in the complaint in said Civil Case No. 1531, it having been filed on January 13, 1959 and the taking of the land involved therein was ordered by the Court of First Instance of Pampanga on January 15, 1959, several months before the lands in this case were taken by the plaintiffs.

"From the above and considering further that the lowest as well as the highest price per square meter obtainable in the market of Pampanga relative to subdivision lots within its jurisdiction in the year 1959 is very well known by the Commissioners, the Commission finds that the lowest price that can be awarded to the lands in question is P10.00 per square meter."[26]

The lower court did not altogether accept the findings of the Commissioners based on the documentary evidence, but it considered the documentary evidence as basis for comparison in determining land values. The lower court arrived at the conclusion that "the unanimous recommendation of the commissioners of ten (P10.00) pesos per square meter for the three lots of the defendants subject of this action is fair and just".[27] In arriving at its conclusion, the lower court took into consideration, among other circumstances, that the lands are titled that there is a rising trend of land values, and the lowered purchasing power of the Philippine peso.

In the case of *Manila Railroad Co. vs. Caligsihan*, 40 Phil. 326, 328, this Court said:

"A court of first instance or, on appeal, the Supreme Court, may change or modify the report of the commissioners by increasing or reducing the amount of the award if the facts of the case so justify. While great weight is attached to the report of the commissioners, yet a court may substitute therefor its estimate of the value of the property as gathered from the record in certain cases, as, where the commissioners have applied illegal principles to the evidence submitted to them, or where they have disregarded a clear preponderance of evidence, or where the amount allowed is either palpably inadequate or excessive."[28]

The report of the commissioners of appraisal in condemnation proceedings are not binding, but merely advisory in character, as far as the court is concerned.[29] In our analysis of the report of the commissioners, We find points that merit serious consideration in the determination of the just compensation that should be paid to Castellvi and Toledo-Gozun for their lands. It should be noted that the commissioners had made ocular inspections of the lands and had considered the nature and similarities of said lands in relation to the lands in other places in the province of Pampanga, like San Fernando and Angeles City. We cannot disregard the observations of the commissioners regarding the circumstances that make the lands in question suited for residential purposes — their location near the Basa Air Base, just like the lands in Angeles City that are near the Clark Air Base, and the facilities that obtain because of their nearness to the big sugar central of the Pampanga Sugar Mills, and to the flourishing first class town of Floridablanca. If it is true that the lands in question are not in the territory of San Fernando and Angeles City, but, considering the facilities of modern communications, the town of Floridablanca may be considered practically adjacent to San Fernando and Angeles City. It is not out of place, therefore, to compare the land values in Floridablanca to the land values in San Fernando and Angeles City, and form an idea of the value of the lands in Floridablanca with reference to the land values in those two other communities.

The important factor in expropriation proceeding is that the owner is awarded the just compensation for his property. We have carefully studied the record, and the evidence, in this case, and after considering the circumstances attending the lands in question We have arrived at the conclusion that the price of P10.00 per square meter, as recommended by the commissioners and adopted by the lower court, is quite high. It is Our considered view that the price of P5.00 per square meter would be a fair valuation of the lands in question and would constitute a just compensation to the owners thereof. In arriving at this conclusion We have particularly taken into consideration the resolution of the Provincial Committee on Appraisal of the province of Pampanga

informing, among others, that in the year 1959 the land of Castellvi could be sold for from P3.00 to P4.00 per square meter, while the land of Toledo-Gozun could be sold for from P2.50 to P3.00 per square meter. The Court has weighed all the circumstances relating to this expropriations proceedings, and in fixing the price of the lands that are being expropriated the Court arrived at a happy medium between the price as recommended by the commissioners and approved by the court, and the price advocated by the Republic. This Court has also taken judicial notice of the fact that the value of the Philippine peso has considerably gone down since the year 1959.[30] Considering that the lands of Castellvi and Toledo-Gozun are adjoining each other, and are of the same nature, the Court has deemed it proper to fix the same price for all these lands.

3. The third issue raised by the Republic relates to the payment of interest. The Republic maintains that the lower court erred when it ordered the Republic to pay Castellvi interest at the rate of 6% per annum on the total amount adjudged as the value of the land of Castellvi, from July 1, 1956 to July 10, 1959. We find merit in this assignment of error.

In ordering the Republic to pay 6% interest on the total value of the land of Castellvi from July 1, 1956 to July 10, 1959, the lower court held that the Republic had illegally possessed the land of Castellvi from July 1, 1956, after its lease of the land had expired on June 30, 1956, until August 10, 1959 when the Republic was placed in possession of the land pursuant to the writ of possession issued by the court. What really happened was that the Republic continued to occupy the land of Castellvi after the expiration of its lease on June 30, 1956, so much so that Castellvi filed an ejectment case against the Republic in the Court of First Instance of Pampanga.[31] However, while that ejectment case was pending, the Republic filed the complaint for eminent domain in the present case and was placed in possession of the land on August 10, 1959, and because of the institution of the expropriation proceedings the ejectment case was later dismissed. In the order dismissing the ejectment case, the Court of First Instance of Pampanga said:

"Plaintiff has agreed, as a matter of fact has already signed an agreement with defendants, whereby she had agreed to receive the rent of the lands, subject matter of the instant case from June 30, 1956 up to 1959 when the Philippine Air Force was placed in possession by virtue of an order of the Court upon depositing the provisional amount as fixed by the Provincial Appraisal Committee with the Provincial Treasurer of Pampanga; x x x..."

If Castellvi had agreed to receive the rentals from June 30, 1956 to August 10, 1959, she should be considered as having allowed her land to be leased to the Republic until August 10, 1959, and she could not at the same time be entitled to the payment of interest during the same period on the amount awarded her as the just compensation of her land. The Republic, therefore, should pay Castellvi interest at the rate of 6% per annum on the value of her land, minus the provisional value that was deposited, only from July 10, 1959 when it deposited in court the provisional value of the land.

4. The fourth error assigned by the Republic relates to the denial by the lower court of its motion for a new trial based on newly discovered evidence. We do not find merit in this assignment of error.

After the lower court had decided this case on May 26, 1961, the Republic filed a motion for a new trial, supplemented by another motion, both based upon the ground of newly discovered evidence. The alleged newly discovered evidence in the motion filed on June 21, 1961 was a deed of absolute sale — executed on January 25, 1961, showing that a certain Serafin Francisco had sold to Pablo L. Narciso a parcel of sugar land having an area of 100,000 square meters with a sugar quota of 100 piculs, covered by P.A. No. 1701, situated in Barrio Fortuna, Floridablanca, for P14,000, or at P.14 per square meter.

In the supplemental motion, the alleged newly discovered evidence were: (1) a deed of sale of some 35,000 square

meters of land situated at Floridablanca for P7,500.00, (or about P.21 per square meter) executed in July, 1959, by the spouses Evelyn D. Laird and Cornelio G. Laird in favor of spouses Bienvenido S. Aguas and Josefina Q. Aguas; and (2) a deed of absolute sale of a parcel of land having an area of 4,120,101 square meters, including the sugar quota covered by Plantation Audit No. 16-1345, situated at Floridablanca, Pampanga, for P860.00 per hectare (a little less than P.09 per square meter) executed on October 22, 1957 by Jesus Toledo y Mendoza in favor of the Land Tenure Administration.

We find that the lower court acted correctly when it denied the motions for a new trial.

To warrant the granting of a new trial based on the ground of newly discovered evidence, it must appear that the evidence was discovered after the trial; that even with the exercise of due diligence, the evidence could not have been discovered and produced at the trial; and that the evidence is of such a nature as to alter the result of the case if admitted.[32] The lower court correctly ruled that these requisites were not complied with.

The lower court, in a well-reasoned order, found that the sales made by Serafin Francisco to Pablo Narciso and that made by Jesus Toledo to the Land Tenure Administration were immaterial and irrelevant, because those sales covered sugarlands with sugar quotas, while the lands sought to be expropriated in the instant case are residential lands. The lower court also concluded that the land sold by the spouses Laird to the spouses Aguas was a sugar land.

We agree with the trial court. In eminent domain proceedings, in order that evidence as to the sale price of other lands may be admitted in evidence to prove the fair market value of the land sought to be expropriated, the lands must, among other things, be shown to be similar.

But even assuming, *gratia argumenti*, that the lands mentioned in those deeds of sale were residential, the evidence would still not warrant the grant of a new trial, for said evidence could have been discovered and produced at the trial, and they cannot be considered newly discovered evidence as contemplated in Section 1 (b) of Rule 37 of the Rules of Court. Regarding this point, the trial court said:

"The Court will now show that there was no reasonable diligence employed.

"The land described in the deed of sale executed by Serafin Francisco, copy of which is attached to the original motion, is covered by a Certificate of Title issued by the Office of the Register of Deeds of Pampanga. There is no question in the mind of the court but that this document passed through the Office of the Register of Deeds for the purpose of transferring the title or annotating the sale on the certificate of title. It is true that Fiscal Lagman went to the Office of the Register of Deeds to check conveyances which may be presented in evidence in this case as it is now sought to be done by virtue of the motions at bar, Fiscal Lagman, one of the lawyers of the plaintiff, did not exercise reasonable diligence as required by the rules. The assertion that he only went to the office of the Register of Deeds 'now and then' to check the records in that office only shows the half-hazard [sic] manner by which the plaintiff looked for evidence to be presented during the hearing before the Commissioners if it is at all true that Fiscal Lagman did what he is supposed to have done according to Solicitor Padua. It would have been the easiest matter for plaintiff to move for the issuance of a subpoena duces tecum directing the Register of Deeds of Pampanga to come to testify and to bring with him all documents found in his office pertaining to sales of land in Floridablanca adjacent to or near the lands in question executed or recorded from 1958 to the present. Even this elementary precaution was not done by plaintiff's numerous attorneys.

"The same can be said of the deeds of sale attached to the supplementary motion. They refer to lands covered by certificate of title issued by the Register of Deeds of Pampanga. For the same reason they could have been easily discovered if reasonable diligence had been exerted by the numerous lawyers of the plaintiff in this case. It is noteworthy that all these deeds of sale could be found in several government offices, namely, in the Office

of the Register of Deeds of Pampanga, the Office of the Provincial Assessor of Pampanga, the Office of the Clerk of Court as a part of notarial reports of notaries public that acknowledged these documents, or in the archives of the National Library. In respect to Annex 'B' of the supplementary motion copy of the document could also be found in the Office of the Land Tenure Administration, another government entity. Any lawyer with a modicum of ability handling this expropriation case would have right away though [sic] of digging up documents diligently showing conveyances of lands near or around the parcels of land sought to be expropriated in this case in the offices that would have naturally come to his mind such as the offices mentioned above, and had counsel for the movant really exercised the reasonable diligence required by the Rule, undoubtedly they would have been able to find these documents and/or caused the issuance of subpoena duces tecum.x x x

"It is also recalled that during the hearing before the Court of the Report and Recommendation of the Commissioners and objection thereto, Solicitor Padua made the observation:

'I understand, Your Honor, that there was a sale that took place in this place of land recently where the land was sold for P0.20 which is contiguous to this land.'

"The Court gave him permission to submit said document subject to the approval of the Court. x x x This was before the decision was rendered, and later promulgated on May 26, 1961 or more than one month after Solicitor Padua made the above observation. He could have, therefore, checked up the alleged sale and moved for a reopening to adduce further evidence. He did not do so. He forgot to present the evidence at a more propitious time. Now, he seeks to introduce said evidence under the guise of newly-discovered evidence. Unfortunately, the Court cannot classify it as newly-discovered evidence, because under the circumstances, the correct qualification that can be given is 'forgotten evidence'. Forgotten evidence, however, is not newly-discovered evidence." [33]

The granting or denial of a motion for new trial is, as a general rule, discretionary with the trial court, whose judgment should not be disturbed unless there is a clear showing of abuse of discretion.[34] We do not see any abuse of discretion on the part of the lower court when it denied the motions for a new trial.

WHEREFORE, the decision appealed from is modified, as follows:

- (a) the lands of appellees Carmen vda. de Castellvi and Maria Nieves Toledo-Gozun, as described in the complaint, are declared expropriated for public use;
- (b) the fair market value of the lands of the appellees is fixed at P5.00 per square meter;
- (c) the Republic must pay appellee Castellvi the sum of P3,796,495.00 as just compensation for her one parcel of land that has an area of 759,299 square meters, minus the sum of P151,859.80 that she withdrew out of the amount that was deposited in court as the provisional value of her land, with interest at the rate of 6% per annum from July 10, 1959 until the day full payment is made or deposited in court;
- (d) the Republic must pay appellee Toledo-Gozun the sum of P2,695,225.00 as the just compensation for her two parcels of land that have a total area of 539,045 square meters, minus the sum of P107,809.00 that she withdrew out of the amount that was deposited in court as the provisional value of her lands, with interest at the rate of 6% per annum from July 10, 1959 until the day full payment is made or deposited in court;
- (e) the attorney's lien of Atty. Alberto Cacnio is enforced; and
- (f) the costs should be paid by appellant Republic of the Philippines, as provided in Section 12, Rule 67, and in Section 13, Rule 141, of the Rules of Court.

IT IS SO ORDERED

Makalintal, C.J., Barredo, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.
Castro, Fernando, Teehankee, and Makasiar, JJ., took no part.

-
- [1] Record on Appeal, Vol. I, pp. 53-56.
- [2] Record on Appeal, Vol. I, pp. 53-56
- [3] Record on Appeal, Vol. I, pp. 121-124.
- [4] Record on Appeal, Vol. I, pp. 235-261
- [5] Record on Appeal. Vol. I, pp. 261-270, 284-297 and 297-299.
- [6] Record on Appeal, Vol. I, pp. 387-456.
- [7] Appellant's brief, pp. 18-30; citing the case of Penn. vs. Carolina Virginia Estate Corp., 57 SE 2d 817.
- [8] Appellee Castellvi's brief, pp. 21-26
- [9] Appellee Toledo-Gozun's brief, pp. 7-9. The issue raised in the second error assigned should really refer only to the land of Castellvi. We find that the lands of Toledo-Gozun, unlike the land of Castellvi, were never leased to the Republic.
- [10] Appellant's brief, pp. 6-12.
- [11] Appellant's brief, p. 12.
- [12] Record on Appeal. Vol. II, pp. 462-463.
- [13] Among the cases cited under this Section is that of Penn. vs. Carolina Virginia Coastal Corporation, 57 SE 2d 817, which is cited by the Republic on p. 18 of its brief.
- [14] See Appellant's brief, p. 6.
- [15] See Appellant's brief, p. 22.
- [16] Similar to Section 5, Rule 69 of the old Rules of Court, the rule in force when the complaint in this case was filed.
- [17] King vs. Minneapolis Union Railway Co., 32 Minn. 224.
- [18] Little Rock Junction vs. Woodruff, 49 Ark. 381; 5 SW 792.
- [19] 27 Am. Jur. 2d pp. 344-345; Rothnam vs. Commonwealth, 406 Pa. 376; Wichita Falls and N.W. Ry. Co. vs. Holloman, 28 Okla. 419, 114 P 700, 701. See also Republic vs. Venturanza, et al., L-20417, May 30, 1966, 17 SCRA 322, 331.
- [20] Decision of the lower court pp. 444-445, Record on Appeal, Vol. I.
- [21] Decision of the lower court, pp. 446-449, Record on Appeal, Vol. I.
- [22] Decision in the Narciso case, Exhibit H for the Republic.
- [23] See page 471, Record on Appeal, Vol. II, and page 41, Appellant's Brief.

[24] Page 10-16, Record on Appeal, Vol. I.

[25] Republic of the Philippines vs. Urtula, 110 Phil. 262-264.

[26] Record on Appeal, Vol. I, pages 257-260.

[27] Lower court's decision, p. 454, Record on Appeal. Vol. I.

[28] See also Manila Railroad Company vs. Velasquez, 32 Phil. 286; and City of Manila vs. Estrada, 25 Phil. 208.

[29] City of Cebu vs. Ledesma, 14 SCRA 666, 669.

[30] In 1959 the money value of two pesos P2.00, Philippine currency, was equal to one U.S. dollar (\$1.00). As published in the "Daily Express" of August 6, 1974, the Philippine National Bank announced that the inter-bank guiding rate was P6.735 to one U.S. dollar (\$1.00).

[31] Civil Case No. 1548.

[32] Sec. 1 (b) of Rule 37 of the Rules of Court.

[33] Record on Appeal, Vol. II, pp. 607-613.

[34] Miranda vs. Legaspi, et al, 92 Phil. 299, 293-294.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.