

# THE MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLANT, VS. CATALINO CALIGSIHAN ET AL., DEFENDANTS. THE TAYABAS LAND COMPANY, APPELLANT.

*G.R. No. 12484. October 29, 1919*

Ponente: MALCOLM, J.

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## MALCOLM, J.:

This is another of the cases relating to the just compensation to be awarded in expropriation proceedings for a portion of the right of way of the Manila Railroad Company, in litigation since 1911, and once previously before this court.

The property involved is situated in the municipality of San Pablo, Province of Laguna. It contains 6,208.7 square meters. Apparently it first belonged to three owners, who later transferred their rights to the Tayabas Land Company. The contest has finally resolved itself into one between the Manila Railroad Company and the Tayabas Land Company. The precise issue, as in nearly all such proceedings, concerns the fair market value of the land.

The extremely divergent claims and findings on this question can best be realized by means of the graphic table which follows:

Amount per square meter claimed or awarded

Total amount claimed or awarded

By whom claimed or awarded

P7

P43,460.90

Defendants in original answer.

P5 plus P60 for the house on the property.

31,103.50

First commissioners, affirmed in first decision of the Court of First Instance, found to be excessive by the Supreme Court.

P8.50 plus P4,000 for the house and improvements.

56,773.95

Majority of second commission, and claimed on appeal by the Tayabas Land Company.

P5

31,043.50

Minority member of the second commission.

P0.92 plus P60 for the house.

5,772.00

Second decision of Judge of First Instance, from which this appeal is taken.

P0.51

3,166.44

Offered by the Manila Railroad Co.

As preliminary to any discussion of the reasonable market value of this land, it is only necessary to state that, pursuant to decisions of this court, later affirmed by the United States Supreme Court, under sections 496 and 497 of the Code of Civil Procedure, 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 the evidence, or where the amount allowed is either palpably inadequate or excessive. (Manila Railroad Company vs. Velasquez [1915], 32 Phil., 286, affirmed on appeal by the United States Supreme Court as the Tayabas Land Company vs. The Manila Railroad Company [1919], United States Supreme Court, Advance Opinions, June 15, 1919, page 524.)

The commissioners and the trial court had before them a great amount of so-called evidence. The mistake which the commissioners made, however, was in considering offers and sales of property in the municipality, which had taken place after the expropriation proceedings were instituted. The apparent mistake which the court made was in taking the medium between this sale and another which transpired on June 18, 1913, after the proceedings were begun, and making this the reasonable value of the property. It is a rule of general application that the value of the property taken by eminent domain should be fixed as of the date of the proceedings, and with reference to the loss the owner sustains, considering the property in its condition and situation at the time it is taken, and not as enhanced by the purpose for which it is taken. Our law says that the compensation shall be "just" and, "to be exactly just, the compensation should be estimated as of the time of the taking." (Lewis on Eminent Domain, 3d ed., Vol. 2, p. 1220; I. S. vs. Chandler-Dunbar Water Power Company [1912], 229 U. S., 53.)

The most competent evidence before the commissioners was the sale of adjacent property, by one of the original defendants, in 1910, about the time the proceedings were begun, at P0.51 per square meter. The difficulty in accepting P0.51 as the absolute and correct measure of value is, that the sale does not conform to the well-known rule to the effect that the market value of property is the price which it will bring when it is offered for sale by one who desires, but is not obliged to sell it, and is bought by one who is under no necessity of having it. According to the testimony of the vendor, and this has not been contradicted, the sale was made because of the imperative necessity of obtaining money at that time. The price should, therefore, be something above P0.51 a square meter. In this connection, it should further be mentioned that the property is within the municipality of San Pablo, is not far distant from the market and the church, and is so located as to be suitable for commercial purposes. The availability and necessity of the land for the use of the railroad was also so imminent as to add something to the value in the minds of possible buyers.

On a full consideration of all the facts, and with frank acknowledgment of the difficulty of fixing a fair market value for this property without returning the record to the trial court for the appointment of a, third set of

commissioners, a contingency which is to be avoided, we agree with the trial court that both P8.50 and P5 a square meter, as determined by the two commissions, was grossly excessive, but cannot agree with the Railroad Company that P0.51 per square meter is just compensation. We can see no better solution than to accept the estimate made by the trial court, but for different reasons.

This finding disposes of the first, and a portion of the second, assignments of error of the Manila Railroad Company, and of most of the eight assignments of error of the Tayabas Land Company. In so far as the defendant, the Tayabas Land Company, contends that the court has not made findings of fact, it is sufficient to state that a mere perusal of the decisions of the trial court demonstrates the total lack of force in this argument.

The last remaining point raised by the Manila Railroad Company is, that it has not been shown who are the real owners of the property and that, consequently, the provisions of section 253, Code of Civil Procedure, as amended by section 3, Act No. 665, and of section 5, Act No. 1258, should be given effect. We find from the record that the Tayabas Land Company has acquired whatever interest the original defendants had in the property. But we note also that one of these defendants seems to have mortgaged his land to a third person. As from the facts before us we cannot say who are the true owners of the land sought to be condemned, the amount awarded should be left in the hands of the clerk of court, for the benefit of the persons whom the trial court shall adjudge to be entitled thereto.

The judgment of the trial court, fixing the value of the property at P5,772, with interest at 6 per cent per annum from December 1st, 1909, until the date of payment, is affirmed; but this amount shall be received and retained in the office of the clerk of court until the Judge of First Instance for the Province of Laguna shall determine who has the right to claim the same. No costs shall be allowed in either instance. So ordered.

Arellano, C.J., Torres, Johnson, Araullo, and Street, JJ., concur.

Judgment affirmed.

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