

NATIONAL POWER CORPORATION, PETITIONER, VS. LOURDES HENSON, MARRIED TO EUGENIO GALVEZ; JOSEFINA HENSON, MARRIED TO PETRONIO KATIGBAK, JESUSA HENSON; CORAZON HENSON, MARRIED TO J...*G.R. No. 129998. December 29, 1998*

Ponente: PARDO, J.

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The case is an appeal via certiorari under Rule 45 of the Revised Rules of Court from the decision of the Court of Appeals, which affirmed with modification the decision of the Regional Trial Court, San Fernando, Pampanga, in a special civil action for eminent domain, ordering the National Power Corporation (NPC) to pay respondents landowners/claimants just compensation for the taking of their five (5) parcels of land, with an area of 63,220 square meters at P400.00, per square meter, with legal interest from September 11, 1990, plus costs of the proceedings.

On March 21, 1990, the National Power Corporation (NPC) originally instituted with the Regional Trial Court, Third Judicial District, Branch 46, San Fernando, Pampanga, a complaint[1] for eminent domain, later amended on October 11, 1990, for the taking for public use of five (5) parcels of land, owned or claimed by respondents, with a total aggregate area of 58,311 square meters, for the expansion of the NPC Mexico Sub-Station.[2]

Respondents are the registered owners/claimants of the five (5) parcels of land sought to be expropriated, situated in San Jose Matulid, Mexico, Pampanga, more particularly described as follows:

"Parcels of rice land, being Lot 1, 2, 3, 4, and 5 of the subdivision plan Psd-03-017121 (OLT) and being a portion of Lot 212 of Mexico Cadastre, situated in the Barangay of San Jose Matulid, Municipality of Mexico, province of Pampanga, Island of Luzon. Bounded on the North by Barangay Road Calle San Jose; on the East by Lot 6, Psd-03-017121 (OLT) owned by the National Power Corporation; on the South by Lot 101, Psd-03-017121 (OLT) being an irrigation ditch; on the West by Lot 100, Psd-03-0017121 (OLT) being an irrigation ditch and Barrio road, containing an aggregate area of FIFTY EIGHT THOUSAND THREE HUNDRED ELEVEN (58,311) square meters, which parcels of land are broken down as follows with claimants:

1. Lot 1-A=43,532 sq. m.- Henson Family
2. Lot 2-A=6,823 sq. m.- Alfredo Tanchiatco, encumbered with Land Bank of the Phil. (LBP)
3. Lot 3-A=3,057 sq. m.-Bienvenido David, encumbered with LBP
4. Lot 4-A=1,438 sq. m.-Maria Bondoc Capili, encumbered with LBP
5. Lot 5-A=3,461 sq. m.-Miguel Manoloto and Henson Family

Total A=58,311 sq. m."

and covered by Transfer Certificate of Title No. 557 in the name of Henson, et al.; Transfer Certificate of Title No. 7131/Emancipation Patent No. A-277216 in the name of Alfredo Tanchiatco; Transfer Certificate of Title No.

7111/Emancipation Patent No. A-278086 in the name of Bienvenido David; Transfer Certificate of Title No. 7108/Emancipation Patent No. A-278089 in the name of Maria B. Capili; Certificate of Land Transfer No. 4550 in the name of Miguel C. Manaloto, and Subdivision Plan Psd-03-017121 (OLT), which is a subdivision of Lot 212, Mexico Cadastre as surveyed for Josefina Katigbak, et al. Said five (5) parcels of land are agricultural/riceland covered by Operation Land Transfer (OLT) of the Department of Agrarian Reform.[3]

Petitioner needed the entire area of the five (5) parcels of land, comprising an aggregate area of 58,311 square meters, for the expansion of its Mexico Subdivision.[4]

On March 28, 1990, petitioner filed an urgent motion to fix the provisional value of the subject parcels of land.³

On April 20, 1990, respondents filed a motion to dismiss.⁴ They did not challenge petitioner's right to condemn their property, but declared that the fair market value of their property was from P180.00 to P250.00 per square meter.[5]

On July 10, 1990, the trial court denied respondents' motion to dismiss. The court did not declare that petitioner had a lawful right to take the property sought to be expropriated.[6] However, the court fixed the provisional value of the land at P100.00 per square meter, for a total area of 63,220[7] square meters of respondents' property, to be deposited with the Provincial Treasurer of Pampanga. Petitioner deposited the amount on August 29, 1990.[8]

On September 5, 1990, the trial court issued a writ of possession in favor of petitioner, and, on September 11, 1990, the court's deputy sheriff placed petitioner in possession of the subject land.[9]

On November 22, 1990, and December 20, 1990, the trial court granted the motions of respondents to withdraw the deposit made by petitioner of the provisional value of their property amounting to P5,831,100.00, with a balance of P690,900.00, remaining with the Provincial Treasurer of Pampanga.[10]

On April 5, 1991, the trial court issued an order appointing three (3) commissioners to aid the court in the reception of evidence to determine just compensation for the taking of the subject property. After receiving the evidence and conducting an ocular inspection, the commissioners submitted to the court their individual reports.

Commissioner Mariano C. Tiglao, in his report dated September 10, 1992, recommended that the fair market value of the entire 63,220 square meters property be fixed at P350.00 per square meter. Commissioner Arnold P. Atienza, in his report dated February 24, 1993, recommended that the fair market value be fixed at P375.00 per square meter. Commissioner Victorino Orocio, in his report dated April 28, 1993, recommended that the fair market value be fixed at P170.00 per square meter.[11]

However, the trial court did not conduct a hearing on any of the reports.

On May 19, 1993, the trial court rendered judgment fixing the amount of just compensation to be paid by petitioner for the taking of the entire area of 63,220 square meters at P400.00 per square meter, with legal interest thereon computed from September 11, 1990, when petitioner was placed in possession of the land, plus attorney's fees of P20,000.00, and costs of the proceedings.[12]

In due time, petitioner appealed to the Court of Appeals.[13]

On July 23, 1997, the Court of Appeals rendered decision affirming that of the Regional Trial Court, except that the award of P20,000.00, as attorney's fees was deleted.[14]

Hence, this petition for review.[15]

By resolution adopted on October 8, 1997, the Court required respondents to comment on the petition within ten

(10) days from notice.[16] On January 7, 1998, respondents filed their comment thereon.[17]

By resolution adopted on February 2, 1998, the Court required petitioner to file a reply to the comment.[18] On August 25, 1990, petitioner filed a reply thereto.[19]

We now resolve to give due course to the petition. We modify the appealed decision.

As respondents did not challenge petitioner's right to expropriate their property, the issue presented boils down to what is the just compensation for the taking of respondents' property for the expansion of the NPC's Mexico Sub-station, situated in San Jose Matulid, Mexico, Pampanga.

The parcels of land sought to be expropriated are undeniably idle, undeveloped, raw agricultural land, bereft of any improvement. Except for the Henson family, all the other respondents were admittedly farmer beneficiaries under operation land transfer of the Department of Agrarian Reform. However, the land has been re-classified as residential. The nature and character of the land at the time of its taking is the principal criterion to determine just compensation to the landowner.[20]

In this case, the trial court and the Court of Appeals fixed the value of the land at P400.00 per square meter, which was the selling price of lots in the adjacent fully developed subdivision, the Santo Domingo Village Subdivision. The land in question, however, was an undeveloped, idle land, principally agricultural in character, though re-classified as residential. Unfortunately, the trial court, after creating a board of commissioners to help it determine the market value of the land did not conduct a hearing on the report of the commissioners. The trial court fixed the fair market value of subject land in an amount equal to the value of lots in the adjacent fully developed subdivision. This finds no support in the evidence. The valuation was even higher than the recommendation of anyone of the commissioners.

On the other hand, Commissioner Atienza recommended a fair market value at P375.00 per square meter. This appears to be the closest valuation to the market value of lots in the adjoining fully developed subdivision. Considering that the subject parcels of land are undeveloped raw land, the price of P375.00 per square meter would appear to the Court as the just compensation for the taking of such raw land.

Consequently, we agree with Commissioner Atienza's report that the fair market value of subject parcels of land be fixed at P375.00 per square meter.

We also agree with petitioner that the area of the communal irrigation canal consisting of 4,809 square meters must be excluded from the land to be expropriated. To begin with, it is excluded in the amended complaint. Hence, the trial court and the Court of Appeals erred in including the same in the area to be taken.

The trial court erroneously ordered double payment for 3,611 square meters of lot 5 (portion) in the dispositive part of its decision, and, hence, this must be deleted.

The trial court and the Court of Appeals correctly required petitioner to pay legal interest[21] on the compensation awarded from September 11, 1990, the date petitioner was placed in possession of the subject land, less the amount respondents had withdrawn from the deposit that petitioner made with the Provincial Treasurer's Office.

We, however, rule that petitioner is under its charter exempt from payment of costs of the proceedings.

WHEREFORE, the decision of the Court of Appeals and that of the trial court subject of the appeal are hereby MODIFIED.

We render judgment as follows:

1. The Court fixes the amount of P375.00, per square meter, as the just compensation to be paid to respondents

for the taking of their property consisting of five (5) parcels of land, with a total area of 58,311 square meters, described in and covered by Transfer Certificates of Title Nos. 557, 7131, 7111, 7108 and Certificate of Land Transfer No. 4550, which parcels of land are broken down as follows:

- a. Lot 1-A, with an area of 43,532 square meters belonging to Lourdes Henson, Josefina Henson, Jesusa Henson and Corazon Henson;
- b. Lot 2-A, with an area of 6,823 square meters belonging to Alfredo Tanchiatco;
- c. Lot 3-A, with an area of 3,057 square meters belonging to Bienvenido David (TCT No. 7111)
- d. Lot 4-A, with an area of 1,438 square meters belonging to Maria Bondoc Capili (TCT No. 7108)
- e. Lot 5-A, with an area of 3,461 square meters belonging to Miguel Manaloto (150 square meters), Certificate of Land Transfer No. 4550 and Henson Family (3,311 square meters),

deducting therefrom the amounts they had withdrawn from the deposit of petitioner for the provisional value of said parcels of land.[22]

2. With legal interest thereon at 6% per annum commencing on September 11, 1990, until the finality of this decision, and at 12% per annum therefrom on the remaining unpaid amount until full payment.

Let this decision be recorded in the office of the Register of Deeds of Pampanga.

No costs in all instances.

SO ORDERED.

Romero, Kapunan and Purisima, JJ., concur.

[1] docketed as Civil Case No. 8615.

[2] Petition, Statement of Facts, par. 4, Rollo, p. 15.

[3] Idem, par. 2, Rollo, pp. 13-14.

[4] Idem, par. 3, Rollo, p. 14.

3 Idem. Par. 5, Rollo, p. 15.

4 Idem., par. 6, Rollo, p. 15.

[5] In cases of eminent domain (Rule 67, Section 3, Revised Rules of Court), a single motion to dismiss takes the place of an answer as a responsive pleading.

[6] Rule 67, Sec. 4, Revised Rules of Court.

[7] This was the area sought to be expropriated in the original complaint; in the amended complaint, the area was reduced to 58,311 square meters.

[8] Idem., Par. 7, Rollo, pp. 15-16.

[9] Idem. Par. 8, Rollo, p. 16.

[10] Idem. Par. 10, Rollo, p. 16.

[11] Idem. Par. 12, Rollo, p. 17.

[12] Idem. Par. 13, Rollo, pp. 17-18.

[13] Idem. Par. 14, Rollo, p. 21.

[14] Annex "A", Petition, Rollo, pp. 43-62.

[15] Rollo, pp. 8-42.

[16] Rollo, p. 77.

[17] Rollo, p. 86-93.

[18] Rollo, p. 95.

[19] Rollo, p. 114-131.

[20] Republic vs. PNB, 1 SCRA 957; Republic vs. Juan, 92 SCRA 26.

[21] At six (6%) per cent per annum, Tio Khe Chio vs. Court of Appeals, 202 SCRA 119.

[22] For Lot 1-A, 43,532 sq. m. P16,324,500.00 less P4,353,200.00, leaving a balance of P11,971,300.00, to Henson Family.

For Lot 2-A, 6823 sq. m. P2,558,625.00 less P682,200.00, leaving a balance of P1,876,435.00, to Alfredo Tanchiatco.

For Lot 3-A, 3057 sq. m. P1,146,375.00 less P305,700.00 leaving a balance of P840,675.00 to Bienvenido David.

For Lot 4-A, 1438 sq. m., P539,250.00, less P143,800.00, leaving a balance of P395,450.00 to Maria Bondoc Capili.

For Lot 5-A, 150 sq. m. P56,250.00 less P15,000.00, leaving a balance of P41,250.00 to Miguel Manoloto.

For Lot 5-A (portion), 3,311 sq. m., P1,241,625.00 less P331,100.00, leaving a balance of P910,525.00 to Henson Family.

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