

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. KER AND COMPANY LIMITED, RESPONDENT.

G.R. No. 136171. July 02, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court filed by petitioner Republic of the Philippines, represented by the Department of Public Works and Highways, assailing the decision rendered by the Court of Appeals in CA G.R. CV No. 54256 entitled, “Republic of the Philippines v. Ker and Company Limited.” The decision in question affirmed the trial court in ordering petitioner to pay herein respondent Ker Company Limited the sum of Six Thousand Pesos (P6,000.00) per square meter as just compensation for the 1,186 square meter lot (Site I) which was expropriated by the government.

The factual background:

Petitioner filed before the Regional Trial Court (RTC) of Davao City a petition for expropriation of portions of two (2) parcels of land owned by respondent described as follows:

Lot No.

TCT No.

Total Area

Affected Area

Site I

2-D-1-A-2

T-212616

29,583 sq. m.

1,186 sq. m.

Site II

2-D-1-B-1

T-212617

2,902 sq. m.

1,035 sq. m.

Petitioner needed the parcels of land for the widening of the road component of J.P. Laurel-Buhangin Interchange in Davao City. The provisional value of the properties sought to be expropriated was fixed at the aggregate sum of Two Million Two Hundred Twenty One Thousand Pesos (P2,221,000.00) or One Thousand Pesos (P1,000.00) per square meter. Respondent claimed that the value of the properties subject for expropriation is more than Four Thousand Pesos (P4,000.00) per square meter.

After study and investigation, the duly appointed commissioners, Ms. Lucia E. Pelayo and Mr. Oliver Morales of Cuervo Appraisers, Inc. gave the following estimates as just compensation for the areas affected:

Site I 1,186 sq. m. = P 8,788.70/square meter

Site II 1,035 sq. m. = P 5,423.48/square meter

While petitioner found the valuation of respondent's property in Site II reasonable, petitioner, in its comment on the Report of the Appraisers found the estimate for Site I excessive, stating that:

1)

the provincial Appraisal Committee in a joint Appraisal Report dated January 14, 1993 recommended the market value of Ker and Company's property at P1,000.00 per square meter;

2)

the highest valuation of lots within the JP Laurel-Buhangin area adjudicated by the RTC, Davao City in a decision rendered on December 23, 1993 is at P4,000.00 per sq. meter; and,

3)

the appraisers did not take into account that the areas in the proceedings are being expropriated for use in a government project vested with public interest.

On September 27, 1996, the RTC rendered a decision the dispositive portion of which reads as follows:

"With the determination of just compensation, judgment is hereby rendered:

- Declaring plaintiff to have a lawful right to acquire possession of and title to:

a)

1,186 square meters only of defendant Ker's parcel of land covered by Certificate of Title T-212616 described as Site I;

b)

1,035 square meters only of defendant Ker's parcel of land covered by Certificate of Title T-212617 described as Site II;

- Condemning portions of the above-described parcels of land including improvements thereon, if there be any, free from all liens and encumbrances;

- Ordering plaintiff to pay:

a)

Defendant Ker P6,000.00 per square meter for the P1,186 in Site I;

b)

Defendant Ker P5,423.48 per square meter for the 1,035 in Site II

as fair and just compensation.” [1]

Petitioner appealed to the Court of Appeals alleging that the value fixed by the trial court as just compensation for Site I should be reduced. Petitioner alleged that when the petition for expropriation was filed, the tax declaration of the property indicated its assessed value at only Four Hundred Twenty-Five Pesos (P425.00) per square meter while its market value was only Eight Hundred Forty Nine Pesos (P849.00) per square meter. Petitioner cited the case of Civil Case No. 22-052-93 entitled “Republic v. Laong”[2] where the RTC of Davao City (Branch 17) fixed the value of the lots within the area of J.P. Laurel Buhangin at Four Thousand Pesos (P4,000.00) per square meter.

The appellate court affirmed the decision of the lower court in toto, ruling that just compensation cannot be measured by the assessed value of the property as stated in the tax declaration and schedule of market values approved by the Provincial Appraisal Committee and that for the purpose of appraisal, the fair market value of the property is taken into account and such value refers to the highest price in terms of money which a property will bring if exposed for sale in the public market. The appellate court brushed aside petitioner’s reliance on Republic v. Laong.

Petitioner in the present petition raises essentially the same issues which were raised before the trial court and the appellate court. In addition however, petitioner avers that since Site I is adjacent to Site II, there are no substantial distinctions to warrant different valuations.

The appellate court did not err in not upholding petitioner’s claim that the valuation for the lot in Site I is excessive and unreasonable since the tax declaration of the property indicated its assessed value at only Four Hundred Twenty-Five Pesos (P425.00) per square meter while its market value was only Eight Hundred Forty-Nine Pesos (P849.00) per square meter based on the revised 1993 schedule of market values. We have declared in *Manotok v. National Housing Authority*[3], that the statements made in tax documents by the assessor may serve as one of the factors to be considered but they cannot exclude or prevail over a court determination after expert commissioners have examined the property and all pertinent circumstances are taken into account and after all the parties have had the opportunity to fully plead their cases before a competent and unbiased tribunal.

That the tax declaration of the property in Site I indicated a much lower assessed or market value therefore does not make commissioners’ valuation of just compensation for the property excessive or unreasonable. The duly appointed commissioners of both parties made a careful study of the properties subject of expropriation. They considered factors such as the location, the most profitable likely use of the remaining area, size, shape, accessibility as well as listings of other properties within the vicinity to arrive at a reasonable estimate of just compensation for both lots due the respondent. Petitioner, in fact, does not question the commissioners’ appraisal value as just compensation for the area affected in Site II.

Petitioner maintains that the assessment of just compensation for the lot in Site I is excessive since the highest valuation made for the properties within the vicinity of J.P. Laurel-Buhangin Road was pegged at Four Thousand Pesos (P4,000.00) in a decision rendered by Branch 17 of the Regional Trial Court of Davao in December 1993.

This contention is not plausible. In computing just compensation for expropriation proceedings, it is the value of the land at the time of the taking or at the time of the filing of the complaint not at the time of the rendition of judgment which should be taken into consideration.[4] Section 4, Rule 67 of the 1997 Rules of Civil Procedure provides that just compensation is to be determined as of the date of the taking or the filing of the complaint whichever came first. On this matter, the appellate court is correct in disregarding petitioner's claim.

Nonetheless, we find merit in petitioner's contention that there are no substantial distinctions between the lot in Site I and the lot in Site II to warrant different valuations.

The lots subject of expropriation are adjacent to each other. The Appraisal Report even indicated that the remaining area of the lot in Site II has the same problem as in Site I with respect to access. The construction of the service road has created a problem pertaining to ingress or egress to the remaining portions of both Sites.[5] Considering that there is no evidence showing substantial distinctions between the lots affected by Site I and Site II and no explanation was given by the commissioners as to why Site I had been given a higher valuation than Site II, we find it just and reasonable that the undisputed sum of Five Thousand Four Hundred Twenty-Three Pesos and Forty-Eight Centavos (P5,423.48) per square meter as just compensation for Site II should likewise apply to Site I.

Wherefore, the petition is partially GRANTED. The assailed decision of the appellate court in C.A. G.R. CV No. 54256 is AFFIRMED with MODIFICATION only in so far as the value for the lot in Site I is concerned. Petitioner Republic of the Philippines is ordered to pay respondent Ker Company Limited Five Thousand Four Hundred Twenty-Three Pesos and Forty-Eight Centavos (P5,423.48) per square meter as just compensation for the 1,186 square meter lot expropriated in Site I.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Rollo, p. 33.

[2] Entitled "Republic of the Philippines v. Reynaldo Laong," Civil Case No. 22-052-93 in the Transcript of Stenographic Notes, p. 4.

[3] 150 SCRA 89, 109 [1987].

[4] Republic v. Philippine National Bank, 1 SCRA 957, 961 [1961].

[5] Records, pp. 106-107.

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