

MARIA PAZ V. NEPOMUCENO, JOINED BY HER HUSBAND, FERMIN A. NEPOMUCENO, PETITIONERS, VS. CITY OF SURIGAO AND SALVADOR SERING IN HIS CAPACITY AS CITY MAYOR OF SURIGAO, RESPONDENTS.

G.R. No. 146091. July 28, 2008

Ponente: CORONA, J.

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CORONA, J.:

Petitioners assail the February 29, 2000 decision[1] and October 12, 2000 resolution of the Court of Appeals (CA) in CA-G.R. CV No. 56461 affirming with modification the decision of the Regional Trial Court (RTC) of Surigao City, Branch 32, in Civil Case No. 4570.

Civil Case No. 4570 was a complaint for "Recovery of Real Property and/or its Market Value" filed by petitioner Maria Paz Nepomuceno to recover a 652 sq. m. portion[2] of her 50,000 sq. m. lot[3] which was occupied, developed and used as a city road by the city government of Surigao. Maria Paz alleged that the city government neither asked her permission to use the land nor instituted expropriation proceedings for its acquisition. On October 4, 1994, she and her husband, co-petitioner, Fermin A. Nepomuceno, wrote respondent (then Surigao City Mayor) Salvador Sering a letter proposing an amicable settlement for the payment of the portion taken over by the city. They subsequently met with Mayor Sering to discuss their proposal but the mayor rebuffed them in public and refused to pay them anything. In a letter dated January 30, 1995, petitioners sought reconsideration of the mayor's stand. But again, the city mayor turned this down in his reply dated January 31, 1995. As a consequence, petitioners claimed that they suffered mental anguish, embarrassment, disappointment and emotional distress which entitled them to moral damages.

In their answer, respondents admitted the existence of the road in question but alleged that it was constructed way back in the 1960s during the administration of former Mayor Pedro Espina. At that time, the lot was owned by the spouses Vicente and Josefa Fernandez who signed a road right-of-way agreement in favor of the municipal government. However, a copy of the agreement could no longer be found because the records were completely destroyed and lost when the Office of the City Engineer was demolished by typhoon Nitang in 1994.

After hearing the parties and evaluating their respective evidence, the RTC rendered its decision[4] and held:

WHEREFORE, premises considered, judgment is hereby rendered ordering the City of Surigao to pay to Maria Paz V. Nepomuceno and her husband, Fermin Nepomuceno, the sum of P5,000.00 as attorney's fees, and the further sum of P3,260.00 as compensation for the portion of land in dispute, with legal interest thereon from 1960 until fully paid, and upon payment, directing her to execute the corresponding deed of conveyance in favor of the said defendant. The Clerk of Court shall execute the necessary instrument in the event of her failure to do so.

The claims for moral and exemplary damages are denied for lack of basis. No pronouncement as to costs.

SO ORDERED.[5]

Unsatisfied with that decision, the petitioners appealed to the CA. As stated earlier, the CA modified the RTC decision and held that petitioners were entitled to P30,000 as moral damages for having been rebuffed by Mayor Sering in the presence of other people. It also awarded petitioners P20,000 as attorney's fees and litigation expenses considering that they were forced to litigate to protect their rights and had to travel to Surigao City from their residence in Ormoc City to prosecute their claim. The CA affirmed the decision of the trial court in all other respects. Petitioners filed a motion for reconsideration but it was denied. Hence, this petition.

Petitioners claim that, in fixing the value of their property, justice and equity demand that the value at the time of actual payment should be the basis, not the value at the time of the taking as the RTC and CA held. They demand P200/sq. m. or a total sum of P130,400 plus legal interest. In the alternative, petitioners pray for the re-examination of the meaning of just compensation and cite the separate concurring opinion of Justice Antonio Barredo in *Municipality of La Carlota v. Spouses Gan*.^[6]

Petitioners also assert that the CA decision in *Spouses Mamerto Espina, Sr. and Flor Espina v. City of Ormoc*^[7] should be applied to this case because of the substantial factual similarity between the two cases. In that case, the City of Ormoc was directed to institute a separate expropriation proceeding over the subject property.

Moreover, petitioners maintain that exemplary damages should be awarded because respondent City of Surigao illegally took their property.

Petitioners' arguments are without merit.

In a long line of cases, we have consistently ruled that where actual taking is made without the benefit of expropriation proceedings and the owner seeks recovery of the possession of the property prior to the filing of expropriation proceedings, it is the value of the property at the time of taking that is controlling for purposes of compensation.^[8] As pointed out in *Republic v. Lara*,^[9] the reason for this rule is:

The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way the compensation to be paid can be truly just; i.e., "just" not only to the individual whose property is taken, "but to the public, which is to pay for it."

Thus, the value of petitioners' property must be ascertained as of 1960 when it was actually taken. It is as of that time that the real measure of their loss may fairly be adjudged. The value, once fixed, shall earn interest at the legal rate until full payment is effected, conformably with other principles laid down by case law.^[10]

Regarding petitioners' contention on the applicability of Article 1250 of the Civil Code,^[11] *Republic v. CA*^[12] is enlightening:

Article 1250 of the Civil Code, providing that, in case of extraordinary inflation or deflation, the value of the currency at the time of the establishment of the obligation shall be the basis for the payment when no agreement to the contrary is stipulated, has strict application only to contractual obligations. In other words, a contractual agreement is needed for the effects of extraordinary inflation to be taken into account to alter the value of the currency. (emphasis supplied)

Since there was never any contractual obligation between the parties in this case, Article 1250 of the Civil Code finds no application.

Moreover, petitioners cannot properly insist on the application of the CA decision in *Spouses Mamerto Espina, Sr. and Flor Espina v. City of Ormoc*.^[13] A decision of the CA does not establish judicial precedent. A ruling of

the CA on any question of law is not binding on this Court.[14] In fact, the Court may review, modify or reverse any such ruling of the CA.

Finally, we deny petitioners' prayer for exemplary damages. Exemplary damages may be imposed by way of example or correction for the public good.[15] The award of these damages is meant to be a deterrent to socially deleterious actions.[16] Exemplary damages would have been appropriate had it been shown that the city government indeed misused its power of eminent domain.[17] In this case, both the RTC and the CA found there was no socially deleterious action or misuse of power to speak of. We see no reason to rule otherwise.

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Delilah Vidallon-Magtolis (retired) and concurred in by Associate Justices Eloy R. Bello, Jr. (retired) and Mercedes Gozo-Dadole (retired) of the Fourteenth Division of the Court of Appeals. Rollo, pp. 18-27.

[2] It was surveyed and identified as Lot No. 900-A-2. The lot was inherited by petitioner Maria Paz from her father and stepmother, spouses Vicente Fernandez and Josefa Elumba.

[3] The lot is registered in the name of petitioner Maria Paz V. Nepomuceno under Transfer Certificate of Title No. 3659 and located in Barangay San Roque (Tobongan), Surigao City.

[4] Penned by Judge Diomedes M. Eviota. Rollo, pp. 28-41.

[5] *Id.*, p. 41.

[6] 150-A Phil. 588, 597 (1972). According to Justice Barredo, the basis of the value of the property should be the value of the currency at the time of the taking, pursuant to the benefits of Article 1250 of the Civil Code, in addition to the payment of interest.

[7] CA - G.R. CV No. 28856, 12 August 1996.

[8] *Manila International Airport Authority v. Rodriguez*, G.R. No. 161836, 28 February 2006, 483 SCRA 619, 627; *Republic v. Sarabia*, G.R. No. 157847, 25 August 2005, 468 SCRA 142; *Ansaldo v. Tantuico, Jr.*, G.R. No. 50147, 03 August 1990, 188 SCRA 300; *Alfonso v. Pasay City*, 106 Phil. 1017 (1960).

[9] 96 Phil. 170 (1954).

[10] *Ansaldo v. Tantuico, Jr.*, *supra* note 8, at pp. 304-305.

[11] See note in footnote 6.

[12] 433 Phil. 106 (2002).

[13] *Supra* note 7.

[14] *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 176290, 21 September 2007.

[15] Article 2229, Civil Code.

[16] Benguet Electric Cooperative, Inc. v. CA, 378 Phil. 1137, 1151 (1999).

[17] Cf. Republic v. CA, G.R. No. 147245, 31 March 2005; National Power Corporation v. CA and Pobre, G.R. No. 106804, 12 August 2004.

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