

THE MANILA RAILROAD CO., PLAINTIFF AND APPELLANT, VS. THE ATTORNEY-GENERAL ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 15141. November 16, 1920*

Ponente: VILLAMOR, J.

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On February 17, 1914, the plaintiff, The Manila Railroad Co., instituted this action in the Court of First Instance of Albay, for the purpose of condemning the lands described in the complaint, alleging that it was necessary for it to acquire said lands for the construction of a railway branch from Legaspi to Nueva Caceres, that it had the right to do so in accordance with the franchise granted to it by Acts Nos. 1510 and 1905 of the Philippine Legislature, and that it could not acquire said lands through extra-judicial transactions as the true owners of some of these lands were unknown to the plaintiff, while those that are known demand highly excessive prices which are not the true value of their lands. The plaintiff asked that, after trial, it be declared owner of the lands described in the complaint and that the reasonable and true value, which it should pay to those who show themselves to be the true owners of said lands, be fixed.

The owners, who appeared and answered the complaint, are Eleuteria Diaz, Eugenia Pinilla, Ceferino Guanzon, Gutierrez Hermanos, and Florencia Quijano. They admitted the right of the plaintiff to expropriate the lands described in the complaint, and they merely stated the different sums which they claimed as compensation for their lands, the improvements existing thereon at the time of their occupation by the plaintiff and the damages occasioned to the unexpropriated part of their lots due to the segregation of that occupied by the railway line.

With the consent of the parties, three commissioners were appointed to hear the evidence, assess the value of the lands sought to be expropriated, and submit to the court a complete and detailed report of the proceedings had, in accordance with sections 243 and 244 of the Code of Civil Procedure.

After the commissioners had been appointed, Domingo Valenciano appeared and, with the court's permission, intervened in this case with the object of presenting evidence upon the value of parcel No. 334 in the plaintiff's plan, and the amount of damages caused to the remainder of the lot from which said parcel was taken.

The evidence having been taken before the commissioners, two of them submitted their report to the court on November 17, 1916, stating: (1) That they assessed the value of parcel No. 280, which belonged to Gutierrez Hermanos, at P0.20 per square meter, independently of the improvements, to which they gave a total value of P18,820.10, and they granted to said commercial firm the sum of P5,000 as damages to the remaining part of their lot; (2) that they fixed the value of parcel No. 282, which belonged to Eleuterio Diaz at P1 per square meter, excluding the improvements thereon, to which they gave the value of P433.50, and they assessed the damages to the unexpropriated part of the lot at P150; (3) that they gave the value of P2.50 per square meter to parcels Nos. 330 and 334, which belonged to Eugenia Pinilla and Domingo Valenciano, respectively, and they adjudicated to the spouses Antonio Porcalla and Eugenia Pinilla the additional sum of P400 for their house on said land, and to Domingo Valenciano the sum of P560 for the damages occasioned to him by the transfer of his house on said

land; and (4) that they assessed the value of parcel No. 353, which belonged to Ceferino Guanzon at P2 per square meter, excluding the improvements thereon, which they valued at P500, and they further granted him the sum of P300 for the damages suffered by him in removing to another place one of the three houses that he had on said land and a further sum of P300 for the value of the two other houses thereon.

The third commissioner, who did not sign the preceding report, presented on March 1st, a dissenting report, in which he stated: (1) That parcel No. 280, belonging to Gutierrez Hermanos, should be assessed at P0.50 per square meter, including its improvements, and that instead of P5,000, only the sum of P4,000 should be granted to it, as damages caused to the unexpropriated part of the land; (2) that parcel No. 282 belonging to Eleuterio Diaz should be assessed at P1 per square meter, including its improvements; (3) that he agrees that the value of P2 per square meter should be given to parcel No. 253 belonging to Ceferino Guanzon, but he assessed the value of the trees thereon at P300 only, and the damages occasioned to him by the removal of his house to another place at P300, and the value of the two houses that were destroyed at P200; and (4) that he completely agrees with the report of the other commissioners with respect to parcels Nos. 330 and 334 belonging to Antonio Porcalla and Domingo Valenciano.

The plaintiff objected to the report of the commissioners, alleging that said commissioners have adopted wrong principles in the assessment of the lands, and the majority of them assessed the value of the lands "separately from their improvements, fixing for each of them excessive and exorbitant prices.

On February 26, 1918, the court rendered judgment, approving the report of the majority of the commissioners, and adjudicating to the plaintiff the ownership of the lands described in the complaint, but condemning it to pay to their respective owners the sums assigned by the commissioners to each of them, with legal interest from February 17, 1914, until full payment.

With respect to parcel No. 14, belonging to Florencia Quijano, but not mentioned in the report of the commissioners, the court also rendered judgment, adjudicating it to the plaintiff and condemning the latter to pay to said Florencia Quijano the sum of P559, with interest from May 20, 1908, until the date of payment.

The plaintiff excepted to this judgment and at the same time moved for a new trial, on the ground that the judgment was manifestly contrary to the weight of the evidence and the law. The motion having been overruled, the plaintiff excepted to the order overruling the motion, and appealed the case to the Supreme Court by means of a bill of exceptions.

This appeal was taken by the plaintiff from the whole judgment, which deals, among others, with parcel No. 14, belonging to Florencia Quijano. But we do not find in the record before us the evidence with respect to this parcel, or the report of the commissioners thereon, and consequently there is no other course for us to take but to dismiss the appeal with respect to parcel No. 14. Furthermore, nowhere in the record does it appear that the appellant has furnished counsel for Florencia Quijano with a copy of his brief, as required by article 21 of the Rules of this Court; and therefore, it is proper to dismiss the appeal, in accordance with article 23 of said Rules, in so far as parcel No. 14, belonging to Florencia Quijano, is concerned.

The errors assigned by the appellant in its brief are the following: (1) The act of the court in approving the report of the commissioners of appraisal and basing his judgment thereon; (2) the act of the court in granting legal interest to the defendants; and (3) the act of the court in denying the motion for new trial.

In discussing the first error imputed to the court below, counsel for the appellant argues that the evidence of the defendants, upon which the report of the commissioners is based, is incompetent, inasmuch as it consists of mere opinions of witnesses, who are not shown to have intervened in real estate transactions, either as brokers or in any

other capacity that may give them knowledge of the value of lands "in said localities." The appellant also attacks the report of the commissioners on the ground that they did not consider the evidence presented by said appellant. The question is therefore raised as to whether the evidence supports the conclusions of the majority of the commissioners. To decide it, we will deal separately with the five parcels covered by the report of the commissioners.

Parcel No. 280.-This parcel is part of the hacienda known as "Hacienda de Mapulangbato," belonging to Gutierrez Hermanos. It is land suitable to be planted to hemp and coconut. It is situated in Ligao, Albay, a small part being in the municipality of Guinobatan.

Constancio Benito declared that he has been living in Ligao for about twenty-two years; that he had sold to Mariano Lim a part of the land administered by him and situated about 50 meters from the Hacienda de Mapulangbato; that said hacienda is of greater value than the land sold by him; that the price obtained by him at said sale was P0.29½ per square meter, which was less than the value of the land, but he decided to effect the sale to avoid litigation with a third person who, claiming to be the owner thereof, had previously sold it; that the document of conveyance, to which he refers, is Exhibit 1 of the defendants. This exhibit bears date, January 31, 1913, that is, one year before the railroad took possession of parcel No. 280, which took place in February, 1914, as appears from Exhibit 1 and others of the defendants. Said Exhibit 1 proves the sale of a part of lot No. 284 of the plan of the railroad at P0.29½ per square meter. The land thus sold is hemp land, according to the document itself, and is 50 meters from the Hacienda de Mapulangbato, according to the testimony of Constancia Benito, above noted.

Another witness, Roman Jaucian, gave the value of Hacienda de Mapulangbato at P0.30 per square meter. This witness has been administering lands in the vicinity of said hacienda and has been living there for more than ten years without having intervened in any voluntary sale of lands.

The witness Leopoldo Teran fixed the price of the expropriated part of said hacienda at P0.40 per square meter, but his experience on the subject consists only in his having administered lands near said hacienda.

Venancio Cavada Diaz, another witness for the defendants, fixed the price at P0.40 to P0.50 per square meter for parcel No. 280. His competency to testify as to the value of the land is indisputable, because he knows perfectly parcel No. 280, having possessed it, first as owner and later as caretaker of Gutierrez Hermanos, and having lived in the municipality of Ligao for twenty years. Furthermore he had bought and sold much lands situated in said municipality and had administered them, farming and dealing in merchandise having been his principal occupation; and therefore he is a business man of great experience who must have acquired special a knowledge of the value of the lands in the locality.

In the case of Manila Railroad Co. vs. Alano (36 Phil., 500), this court accepted the declarations of the clerk of court and of the provincial treasurer of Batangaa as competent, with respect to the value of the lands in their province, for the reason that "their experience as men of affairs in the Province of Batangas, whose official duties could not fail to have given them some special knowledge as to land valuations in that province, lends great weight to their expressions of opinion as to land values in the province in which they live, and justifies us in the belief that their estimates of the true market value of the land in question are not far astray." (See page 505 of the volume cited.)

On the other hand the plaintiff did not present any evidence except Exhibits 1 to 15, of which the first eleven show sales of lands situated in different sitios or barrios of the municipality of Ligao, and the last four are real-estate tax declarations of lots belonging to Gutierrez Hermanos and G. Urrutia and Co. The plaintiff has not established by means of other evidence the identity or similarity between the lands referred to in those exhibits

and those that are the object of the expropriation proceedings. It attempted to do so, but the witnesses presented by it stated that said lands were situated far from parcel No. 280, while the record does not show whether the lands referred to in the other exhibits, with the exception of Exhibits 12, 13 and 14, are near or far from the expropriated lands and have some similarity or relation to each other.

Venancio Cavada Diaz in rebuttal declared that the lands referred to in Exhibits 12 and 14 of the plaintiff were situated about 20 kilometers from the expropriated lands. He also states that Exhibit 13, dated November 21, 1911, is no more than a reproduction of the real-estate tax declaration which he presented in 1906, for when he sold the Hacienda de Mapulangbato to Gutierrez Hermanos, he did nothing more than to put the declaration in the name of Gutierrez Hermanos, and did not change the assessed valuation of the land, such change having been made by the Government only in 1915. It thus results that the value stated in said Exhibits 12 and 14 cannot be made the basis in assessing the value of the lands in question which were expropriated in 1914, the hacienda having been greatly improved during the time that elapsed between 1906 and 1914, according to the declaration of Venancio Cavada Diaz himself. The same thing occurred with the land described in Exhibit 15, according to the same witness.

In the case of Manila Railroad Co. vs. Velasquez (32 Phil., 286), this court held that in order that sales of other lands may be admitted as evidence of the value of the expropriated lands, they must have been effected sufficiently near in point of time with the date of the condemnation proceedings to exclude general increases or decreases in property values due to changed commercial conditions in the vicinity and the lands thus sold must be in the immediate neighborhood, that is, in the zone of commercial activity with which the condemned property is identified. Applying these rules to the case at bar, it results that the exhibits presented by the plaintiff cannot be made the basis in the assessment of the value of the lands here in question, although Exhibit 13 should be considered to determine only whether the price fixed by the commissioners for parcel No. 280 is excessive or reasonable. (Manila Railroad vs. Alano, supra.)

From Exhibit 13, which seems to refer to the Hacienda de Mapulangbato, it appears that it was assessed at less than one centavo per square meter, but it should be noted that that was an assessment of the whole land which, according to the testimony of Cavada Diaz, was in part mountainous and difficult to cultivate and in part level and tillable, as it was in effect planted with hemp and coconut and other plants and trees. It should also be noted that the railroad had occupied the parts that are level and easily cultivated. Now, then, considering that the assessment was made about eight years prior to the expropriation proceedings, that during this period of time the land was cultivated with care, and that the expropriated part of the Hacienda de Mapulangbato is level and easily cultivated, and therefore, of great value, we do not believe that the value of P0.20 per square meter fixed by the commissioners is excessive.

With respect to the valuation of the improvements on the expropriated part, the plaintiff has no reasonable grounds for complaint, not only because it has not presented any evidence on the point, but also because the witnesses for the defendant, who testified on the value of said improvements, have shown such experience in the lumber business, in the planting of trees, and such knowledge as to the use, enjoyment and value of the trees and plants existing on the lands, that it is impossible to question their competency in fixing the value of said improvements. More than this, the commissioners reduced the values fixed by said witnesses. We are therefore of the opinion that in assessing the value of these improvements the commissioners committed no error prejudicial to the interests of the plaintiff.

The appellant, in order to support its contention that the improvements on the expropriated lands should have been assessed jointly with the lands, invokes the doctrine laid down by this court in the case of Manila Railroad Co. vs. Aguilar (35 Phil., 118), where it was said: "When the land is preferably intended for the raising of a given crop or

for the planting of trees of a certain kind, although these or the crop be deemed improvements of the land they should not be appraised apart from the land as they are an integral part thereof and their value is inherent or forms a part of that of the land." In the present case it has not been shown that the land is better adapted to a particular kind of plant; on the contrary, it is shown to be planted with several kinds of trees and plants, and therefore we are of the opinion that said improvements may be valued separately from the land, inasmuch as the owners of expropriated lands have the right to be indemnified for the improvements existing thereon, as was held by this court in the case of Manila Railroad Co. vs. Velasquez (32 Phil., 286).

Finally there can be no doubt that damages were occasioned to the unexpropriated part of the land, because the remaining portion was divided into two parts, with the result that it is very difficult to pass from one part to the other. The witness Cavada Diaz fixed the value of these damages at P20,000, while the commissioners fixed it at P5,000. These damages consist in the fact that now transportation to and from the hacienda is costly because there is no direct way from one side of the railroad line to the other, and these damages are not compensated by any special benefit derived from the construction of the line, for no station was established near the hacienda, for which reason the value of the unexpropriated land was necessarily reduced. According to Exhibit 13, the hacienda had a total area of 160 hectares, and an extent of about 52 hectares having been expropriated, 108 hectares remain, and the sum of P5,000 adjudicated by the commissioners to Gutierrez Hermanos represents the decrease in the value of the 108 hectares at the rate of less than one-half centavo per square meter, that is, 2 per cent if the price of the unexpropriated part be fixed at P0.20, or 4 per cent if it be fixed at P0.10 per square meter, which appears to be reasonable, inasmuch as the remaining or unexpropriated part is of less value than the part occupied by the railroad because its tillable portion is less. The amount granted by the commissioners as damages occasioned to the unexpropriated part is therefore not excessive.

Parcel No. 282.-This parcel belongs to Eleuterio Diaz, who is represented in these proceedings by Venancio Cavada Diaz, as is shown by a power of attorney duly executed in favor of the latter by the former who is now absent in Spain.

It is situated in the sitio of Paolog, barrio of Tuburan, municipality of Ligao, at a distance of about 50 meters from the main road from Albay to Ligao and in the corner of the bridge of Paolog. The whole land of Eleuterio Diaz borders on said road and was rented by the "International Purchasing Company," which had a camarin thereon of strong materials, which camarin contained important machinery and a press belonging to said company. Upon it there was also one building in which two ilang-ilang stills had been installed, another building used as a storehouse for coprax, and another building of strong materials. There were also many trees and plants of several kinds. The land was principally suitable for construction of buildings, although plants and trees had been planted thereon in order to utilize the part not covered by the buildings. On several sides the land was enclosed with wire fencing and there were about twelve houses near it. With these facts which clearly appear in the record there can be no doubt that parcel No. 282 is a lot.

The witness Cavada Diaz who knows this lot, for he is the agent of the owner, fixed its value at P1 per square meter, excluding the improvements.

The plaintiff did not present any evidence in these proceedings with the exception of Exhibits 1 to 15, nor did it present any witness to establish the relation between these documents and the expropriated land. Of these fifteen documents, Exhibits 8, 13 and 15 refer to lands situated in the barrio of Tuburan where parcel No. 282 is situated, but the first of said lands is, according to the exhibits themselves, hemp and coconut land, the second is a rustic and hemp land, and the last is hemp land; while parcel No. 282 is a lot. It is therefore evident that the report of the commissioners as to the value of this parcel is in accordance with the evidence.

From the declaration of Venancio Cavada Diaz it is to be inferred that the land described in assessment sheet Exhibit 15 is the same parcel No. 282, but even supposing that this is true, said exhibit is not sufficient proof that the value fixed by the commissioners for said parcel is erroneous, for said Exhibit 15 was presented in 1908 and it therefore cannot be affirmed that the value stated therein is the value of parcel No. 282 in 1914, when it was occupied by the plaintiff, inasmuch as it appears in the record that the land has increased in value due to the improvements made thereon.

With respect to the improvements and the damages caused to the remainder of the lot, what has been said with respect to parcel No. 280 is applicable to No. 282, for the prices given by the witness Cavada Diaz for each tree and plant, which do not appear to be exaggerated, were yet reduced by the referees; and the damages caused to the unexpropriated part are almost identical with those caused to parcel No. 280. The whole of the land of which parcel No. 282 forms part is less than 2 hectares in area, the expropriated part measuring 2,610 square meters, and the remaining part being about 1½ hectares. The witness Cavada Diaz fixed the damages at P400, but the commissioners reduced them to P150, or approximately 1 cent per square meter for the unexpropriated part; and P1 per square meter being the price given to the lot, it results that the diminution in value of the unexpropriated part is only 1 per cent, which is far from being excessive.

Parcel No. 330.-This parcel belongs to the spouses Antonio Porcalla and Eugenia Pinilla. It is situated in the barrio of Bagumbayan about 19 meters from the new market of Ligao. At the time of its condemnation by the railroad, that is, in February, 1914, there was on it a house of wood and bamboo with nipa roof and therefore it was a lot.

The evidence on the value of this parcel consists of the declarations of Venancio Cavada Diaz and Calixto Verar and Exhibit 24 of the defendants.

This exhibit is a notarial document executed by one Higino Cipriano in favor of the witness Calixto Verar, which evidences a sale between these two persons of a lot situated in the barrio of Bagumbayan, municipality of Ligao. In describing the land the document says that it bordered on one side by "lands of the municipality, that is, by the market then under construction." The area of the lot does not appear in the document though it states that it has a "circumference of sixty-six meters."

According to the testimony of Venancio Cavada Diaz, the land described in said document, Exhibit 24, is identical with parcel No. 330; they are situated in the same barrio, at the same distance from the public market, and are under the same conditions. It also appears that the sale was effected under normal circumstances, for the purchaser himself declared that he was not obliged to buy the land, and that he bought it because he wanted to put up a store near the market which was intended to be constructed there; and although it does not appear whether the vendor was or was not in need of money, nevertheless, the purchaser himself stated that the sale was effected in a free and voluntary manner.

It therefore results that the price at which the land described in Exhibit 24 was sold is a reasonable basis for the valuation of parcel No. 330. (Manila Railroad Co. vs. Velasquez, 32 Phil., 286; City of Manila vs. Neal, 33 Phil., 291; and City of Manila vs. Estrada and Estrada, 25 Phil., 208.)

The purchaser Calixto Verar was a caretaker of the firm Gutierrez Hermanos, and he took the money with which he paid the price of the land covered by Exhibit 24 from that firm, by reason of which Venancio Cavada Diaz learned of the transaction. Later on Calixto Verar attempted to sell the same land and then Venancio Diaz, with the intention of acquiring it, had a surveyor measure it, and the land was measured in the presence of Cavada Diaz, who not only aided in the work of locating the course of the boundaries of the land and the longitudes, but also in the calculation of the area, he having noted the data secured by him on a piece of paper. Said witness,

Diaz, states that this note is what he consulted when he declared that the land had a length of 21 meters on the longest side and a width of 12 meters on the widest side, and an area of 238 square meters which, at the price of P500 mentioned in Exhibit 24, gives a price of P2.14 per square meter. But as the public market mentioned in said Exhibit 24, as the future boundary, did not yet exist when the sale was made, said market having been opened a few months before the occupation of parcel No. 330 by the railroad, according to the testimony of Venancio Cavada Diaz, it is evident that the existence of said market must have increased the value of the lot referred to in Exhibit 24 and also of parcel No. 330 which is nearby, as was the opinion of the witness Cavada Diaz; and, therefore, the value of parcel No. 330 at the time of its occupation by the railroad must be greater than the price at which the land mentioned in Exhibit 24 was sold. The witness, Cavada Diaz, fixed this price at P2.50 and the commissioners, including the dissenting one, accepted it without reducing or increasing it. On the other hand, there is no evidence in the record in favor of the contention of the plaintiff, and therefore there is no ground for declaring the conclusions of the commissioners as erroneous.

It has been proved that the house located on the land was destroyed by the employees or laborers of the railroad company and that the owners did not in any way benefit from the materials thereof. The witness Cavada Diaz who knew the house, having been there several times when Antonio Porcalla lived there as mayordomo, stated that said house cost P450, but at the time of its destruction by the company, part of the kitchen was already in a fallen condition and for this reason he fixed its value at P400, which was accepted completely by the three commissioners.

Parcel No. 334.-What has been said with respect to No. 330 is wholly applicable to this parcel No. 334, because it is also a lot situated in the center of the town at a distance of 100 meters from the new public market of Ligao. The dissenting commissioner himself had to accept the price of P2.50 per square meter.

For the damage caused to the house on the lot due to the opening of the railway line and the transfer thereof to another place, the commissioners including the dissenting one, adjudicated P560 to its owner, their action being based on the testimony of the latter, who was the only one to testify on the subject and the only one who would know the value of said damages.

Of the fifteen exhibits presented by the plaintiff, Exhibit 1 refers to the land situated in Bagumbayan, which seems to be the same barrio in which parcels Nos. 330 and 334 are situated, but according to said exhibit the land therein referred to is rice land, and therefore it cannot be made the basis in assessing the value of the lands in question, which are lots.

Parcel No. 353.-This parcel is a lot situated 200 meters from the public square of the town and is therefore similar to the two preceding lots. But the three commissioners fixed its value at P2 because it is at a greater distance from the zone of commercial activity than the others; and therefore the plaintiff's objection to the report of the commissioners is groundless so far as it concerns parcel No. 353.

As to the improvements on this parcel, the majority of the commissioners assessed their value, basing their assessment upon the uncontradicted testimony of its owner Ceferino Guanzon and upon other evidence in the record, but reduced some of the amounts claimed by said owner. The appellant has not shown in what respect the court erred, if it committed any error, and therefore, there is no reason for rejecting or modifying the report of the commissioners which was approved by the lower court.

With respect to the interest granted by the lower court to the owners of the expropriated lands, this court has held in unequivocal terms that the owners of expropriated lands are entitled to recover interest from the date that the company, exercising the right of eminent domain, takes possession of the condemned lands, and the amounts granted by the court shall cease to earn interest only from the moment they are paid to the owners or are deposited

in court. (Philippine Railway Co. vs. Solon, 13 Phil., 34 and Philippine Railway Co. vs. Duran, 33 Phil., 156.)

For the reasons above stated it is proper to affirm, as we do affirm, the judgment appealed from, and the appeal is dismissed with respect to parcel No. 14, with the costs of this instance against the appellant. So ordered.

Mapa, C. J., Johnson, Araullo, Street and Malcolm, JJ., concur.

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