

NATIONAL POWER CORP., PETITIONER, VS. SPOUSES NORBERTO AND JOSEFINA DELA CRUZ, METROBANK, DASMARIÑAS, CAVITE BRANCH, REYNALDO FERRER, AND S.K. DYNAMICS MANUFACTURER CORP., RESPO...

G.R. No. 156093. February 02, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

The Case

In this petition for review under Rule 45 of the Rules of Court, petitioner National Power Corporation (NAPOCOR) seeks to annul and set aside the November 18, 2002 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 67446, which affirmed the December 28, 1999 Order[2] of the Imus, Cavite Regional Trial Court (RTC), Branch XX in Civil Case No. 1816-98, which fixed the fair market value of the expropriated lots at PhP 10,000.00 per square meter.

The Facts

Petitioner NAPOCOR is a government-owned and controlled corporation created under Republic Act No. 6395, as amended, with the mandate of developing hydroelectric power, producing transmission lines, and developing hydroelectric power throughout the Philippines. NAPOCOR decided to acquire an easement of right-of-way over portions of land within the areas of Dasmariñas and Imus, Cavite for the construction and maintenance of the proposed Dasmariñas-Zapote 230 kV Transmission Line Project.[3]

On November 27, 1998, petitioner filed a Complaint[4] for eminent domain and expropriation of an easement of right-of-way against respondents as registered owners of the parcels of land sought to be expropriated, which were covered by Transfer Certificates of Title (TCT) Nos. T-313327, T-671864, and T-454278. The affected areas were 51.55, 18.25, and 14.625 square meters, respectively, or a total of 84.425 square meters.

After respondents filed their respective answers to petitioner's Complaint, petitioner deposited PhP 5,788.50 to cover the provisional value of the land in accordance with Section 2, Rule 67 of the Rules of Court.[5] Then, on February 25, 1999, petitioner filed an Urgent Ex-Parte Motion for the Issuance of a Writ of Possession, which the trial court granted in its March 9, 1999 Order. The trial court issued a Writ of Possession over the lots owned by respondents spouses de la Cruz and respondent Ferrer on March 10, 1999 and April 12, 1999, respectively.

However, the trial court dropped the Dela Cruz spouses and their mortgagee, Metrobank, as parties-defendants in its May 11, 1999 Order,[6] in view of the Motion to Intervene filed by respondent/intervenor Virgilio M. Saulog, who claimed ownership of the land sought to be expropriated from respondents spouses Dela Cruz.

On June 24, 1999, the trial court terminated the pre-trial in so far as respondent Ferrer was concerned, considering that the sole issue was the amount of just compensation, and issued an Order directing the constitution of a Board

of Commissioners with respect to the property of respondent S.K. Dynamics. The trial court designated Mr. Lamberto C. Parra, Cavite Provincial Assessor, as chairman, while petitioner nominated the Municipal Assessor of Dasmariñas, Mr. Regalado T. Andaya, as member. Respondent S.K. Dynamics did not nominate any commissioner.

As to the just compensation for the property of Saulog, successor-in-interest of the Dela Cruz spouses, the trial court ordered the latter and petitioner to submit their compromise agreement.

The commissioners conducted an ocular inspection of S.K. Dynamics' property, and on October 8, 1999, they submitted a report to the trial court, with the following pertinent findings:

In arriving our [sic] estimate of values our studies and analysis include the following:

I. PROPERTY LOCATION

As shown to us on-site during our ocular inspection, the appraised property is land only, identified as the area affected by the construction of the National Power Corporation (NPC) Dasmariñas-Zapote 230KV Transmission Lines Project, located within Barangay Salitran, Dasmariñas, Cavite registered in the name of S.K. Dynamic[s] Manufacture[r], Corp., under Transfer Certificate of Title No. T-454278.

II. NEIGHBORHOOD DESCRIPTION

The neighborhood particularly in the immediate vicinity is within a mixed residential and commercial area, situated in the northern section of the Municipality of Dasmariñas which was transversed [sic] by Gen. Emilio Aguinaldo Highway [where] several residential subdivisions and commercial establishment[s] are located.

Considered as some of the important improvements [on] the vicinity are (within 1.5 radius)

Orchard Golf and Country Club

Golden City Subdivision

Southfield Subdivisions

Arcontica Sports Complex

Max's Restaurant

Waltermart Shopping Mall

UMC Medical Center

Several savings and Commercial Banks as well as several Gasoline stations.

Community centers such as, [sic] churches, public markets, shopping malls, banks and gasoline stations are easily accessible from the subject real properties.

Convenience facilities such as electricity, telephone service as well as pipe potable water supply system are all available along Gen. Emilio Aguinaldo Highway.

Public transportation consisting of passenger jeepneys and buses as well taxicabs are [sic] regularly available along Gen. E. Emilio Aguinaldo Highway [sic].

x x x x

IV. HIGHEST AND MOST PROFITABLE USE

x x x x

The subject property is situated within the residential/commercial zone and considering the area affected and taking into consideration, their location, shape, lot topography, accessibility and the predominant uses of properties in the neighborhood, as well as the trend of land developments in the vicinity, we are on the opinion that the highest and most profitable use of the property is good for residential and commercial purposes.

V. VALUATION OF LAND MARKET DATA

x x x x

Based on the analysis of data gathered and making the proper adjustments with respect to the location, area, shape, accessibility, and the highest and best use of the subject properties, it is the opinion of the herein commissioners that the fair market value of the subject real properties is P10,000.00 per square meter, as of this date, October 05, 1999.[7]

Thus, both commissioners recommended that the property of S.K. Dynamics to be expropriated by petitioner be valued at PhP 10,000.00 per square meter.

The records show that the commissioners did not afford the parties the opportunity to introduce evidence in their favor, nor did they conduct hearings before them. In fact, the commissioners did not issue notices to the parties to attend hearings nor provide the concerned parties the opportunity to argue their respective causes.

Upon the submission of the commissioners' report, petitioner was not notified of the completion or filing of it nor given any opportunity to file its objections to it.

On December 1, 1999, respondent Ferrer filed a motion adopting in toto the commissioners' report with respect to the valuation of his property.[8] On December 28, 1999, the trial court consequently issued the Order approving the commissioners' report, and granted respondent Ferrer's motion to adopt the subject report. Subsequently, the just compensation for the disparate properties to be expropriated by petitioner for its project was uniformly pegged at PhP 10,000.00 per square meter.

Incidentally, on February 11, 2000, respondent S.K. Dynamics filed a motion informing the trial court that in addition to the portion of its property covered by TCT No. T-454278 sought to be expropriated by petitioner, the latter also took possession of an 8.55-square meter portion of S.K. Dynamics' property covered by TCT No. 503484 for the same purpose-to acquire an easement of right-of-way for the construction and maintenance of the proposed Dasmariñas-Zapote 230 kV Transmission Line Project. Respondent S.K. Dynamics prayed that said portion be included in the computation of the just compensation to be paid by petitioner.

On the same date, the Imus, Cavite RTC granted S.K. Dynamics' motion to have the 8.55-square meter portion of its property included in the computation of just compensation.

The Ruling of the Regional Trial Court

As previously stated, in its December 28, 1999 Order, the trial court fixed the just compensation to be paid by petitioner at PhP 10,000.00 per square meter. The relevant portion of the said Order reads as follows:

On October 8, 1999, a Commissioner's Valuation Report was submitted in Court by the Provincial Assessor of Cavite and by the Municipal Assessor of Dasmariñas, Cavite. Quoting from said Report, thus:

"Based on the analysis of data gathered and making the proper adjustments with respect to location, area, shape, accessibility, and the highest and best use of the subject properties, it is the opinion of herein commissioners that the fair market value of the subject real properties is P10,000.00 per square meter, as of this date, October 05, 1999."

Finding the opinion of the Commissioners to be in order, this Court approves the same. Accordingly, the Motion filed by [respondent] Reynaldo Ferrer adopting said valuation report is granted.

SO ORDERED. [9]

On January 20, 2000, petitioner filed a Motion for Reconsideration of the abovementioned Order, but said motion was denied in the trial court's March 23, 2000 Order, which states that:

The basis of [petitioner] in seeking to set aside the Order dated December 28, 1999 is its claim that the Commissioners' Report fixing the just compensation at P10,000.00 per square meter is exorbitant, unjust and unreasonable. To support its contention, [petitioner] invoked Provincial Appraisal Committee Report No. 08-95 dated October 25, 1995 which set the just compensation of lots along Gen. Aguinaldo Highway at P3,000.00 per sq.m. only.

By way of opposition, [respondent] Dynamics countered that the valuation of a lot under expropriation is reckoned at the time of its taking by the government. And since in the case at bar, the writ of possession was issued on March 10, 1999, the price or value for 1999 must be the one to be considered.

We find for the defendant.

The PAR Resolution alluded to by [petitioner] was passed in 1995 or four (4) years [before] the lot in question was taken over by the government. This explains why the price or cost of the land has considerably increased. Besides, the valuation of P10,000.00 per sq.m. was the one recommended by the commissioner designated by [petitioner] itself and concurred in by the Provincial Assessor of Cavite.

Be that as it may, the Motion for Reconsideration is denied.

SO ORDERED.[10]

The Ruling of the Court of Appeals

Unsatisfied with the amount of just compensation, petitioner filed an appeal before the CA. In resolving the appeal, the CA made the following findings:

We find nothing on record which would warrant the reversal of the Order dated December 28, 1999 of the court a quo.

[Petitioner] submits that the order of the court a quo adopting the Commissioners [sic] Valuation Report, fixing the just compensation for the subject lots in the amount of P10,000.00 per square meter is exorbitant [sic], highly speculative and without any basis. In support thereto, [petitioner] presented before the court a quo the Provincial Appraisal Committee of Cavite Resolution No. 08-95 x x x which fixed the fair market value of lots located along Gen. Aguinaldo Highway, Dasmariñas, Cavite, which incidentally includes the lots subject of this proceedings [sic], in the amount of P3,000.00 per square meter.

We do not agree.

"The nature and character of the land at the time of its taking is the principal criterion to determine just compensation to the land owner." (National Power Corporation vs. Henson, 300 SCRA 751-756).

The CA then cited Section 4, Rule 67 of the 1997 Rules of Civil Procedure[11] to explain why Resolution No. 08-95 could not "be used as [a] basis for determining the just compensation of the subject lots, which by reason of the changed commercial conditions in the vicinity, could have increased its value greater than its value three (3) years ago." The said resolution, which fixed the fair market value of the lots, including that of the disputed lots along Gen. Aguinaldo Highway, was approved on October 25, 1995, while petitioner filed the Complaint for the expropriation of the disputed lots on November 27, 1998, or more than three (3) years had elapsed after said resolution was approved. Reflecting on the commissioners' report, the CA noted that since the property underwent important changes and improvements, "the highest and most profitable use of the property is good for residential

and commercial purposes."

As regards the commissioners' failure to conduct a hearing "to give the parties the opportunity to present their respective evidence," as alleged by petitioner, the CA opined that "[t]he filing by [petitioner] of a motion for reconsideration accorded it ample opportunity to dispute the findings of the commissioners, so that [petitioner] was as fully heard as there might have been hearing actually taken place x x x."

The CA ultimately rendered its judgment, as follows:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED for lack of merit. The Order dated December 28, 1999 and March 23, 2000 of the court a quo are hereby AFFIRMED by this Court.

SO ORDERED.[12]

Significantly, petitioner did not file a Motion for Reconsideration of the CA November 18, 2002 Decision, but it directly filed a petition for review before us.

The Issues

In this petition for review, the issues are the following:

PETITIONER WAS DENIED DUE PROCESS WHEN IT WAS NOT ALLOWED TO PRESENT EVIDENCE ON THE REASONABLE VALUE OF THE EXPROPRIATED PROPERTY BEFORE THE BOARD OF COMMISSIONERS.

THE VALUATION OF JUST COMPENSATION HEREIN WAS NOT BASED FROM THE EVIDENCE ON RECORD AND OTHER AUTHENTIC DOCUMENTS.[13]

The Court's Ruling

We find this petition meritorious.

It is beyond question that petitions for review may only raise questions of law which must be distinctly set forth;[14] thus, this Court is mandated to only consider purely legal questions in this petition, unless called for by extraordinary circumstances.

In this case, petitioner raises the issue of denial of due process because it was allegedly deprived of the opportunity to present its evidence on the just compensation of properties it wanted to expropriate, and the sufficiency of the legal basis or bases for the trial court's Order on the matter of just compensation. Unquestionably, a petition for review under Rule 45 of the Rules of Court is the proper vehicle to raise the issues in question before this Court.

In view of the significance of the issues raised in this petition, because this case involves the expenditure of public funds for a clear public purpose, this Court will overlook the fact that petitioner did not file a Motion for Reconsideration of the CA November 18, 2002 Decision, and brush aside this technicality in favor of resolving this case on the merits.

First Issue: Petitioner was deprived of due process when it was not given the opportunity to present evidence before the commissioners

It is undisputed that the commissioners failed to afford the parties the opportunity to introduce evidence in their favor, conduct hearings before them, issue notices to the parties to attend hearings, and provide the opportunity for the parties to argue their respective causes. It is also undisputed that petitioner was not notified of the completion or filing of the commissioners' report, and that petitioner was also not given any opportunity to file its

objections to the said report.

A re-examination of the pertinent provisions on expropriation, under Rule 67 of the Rules of Court, reveals the following:

SEC. 6. Proceedings by commissioners.-Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. Evidence may be introduced by either party before the commissioners who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case. The commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken.

SEC. 7. Report by commissioners and judgment thereupon.-The court may order the commissioners to report when any particular portion of the real estate shall have been passed upon by them, and may render judgment upon such partial report, and direct the commissioners to proceed with their work as to subsequent portions of the property sought to be expropriated, and may from time to time so deal with such property. The commissioners shall make a full and accurate report to the court of all their proceedings, and such proceedings shall not be effectual until the court shall have accepted their report and rendered judgment in accordance with their recommendations. Except as otherwise expressly ordered by the court, such report shall be filed within sixty (60) days from the date the commissioners were notified of their appointment, which time may be extended in the discretion of the court. Upon the filing of such report, the clerk of the court shall serve copies thereof on all interested parties, with notice that they are allowed ten (10) days within which to file objections to the findings of the report, if they so desire.

SEC. 8. Action upon commissioners' report.-Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may recommit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken.

Based on these provisions, it is clear that in addition to the ocular inspection performed by the two (2) appointed commissioners in this case, they are also required to conduct a hearing or hearings to determine just compensation; and to provide the parties the following: (1) notice of the said hearings and the opportunity to attend them; (2) the opportunity to introduce evidence in their favor during the said hearings; and (3) the opportunity for the parties to argue their respective causes during the said hearings.

The appointment of commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. In the instant expropriation case, where the principal issue is the determination of just compensation, a hearing before the commissioners is indispensable to allow the parties to present evidence on the issue of just compensation. While it is true that the findings of commissioners may be disregarded and the trial court may substitute its own estimate of the value, the latter may only do so for valid reasons, that is, where the commissioners have applied illegal principles to the evidence submitted to them, where

they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive. Thus, "trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all." [15]

In this case, the fact that no trial or hearing was conducted to afford the parties the opportunity to present their own evidence should have impelled the trial court to disregard the commissioners' findings. The absence of such trial or hearing constitutes reversible error on the part of the trial court because the parties' (in particular, petitioner's) right to due process was violated.

The Court of Appeals erred in ruling that the petitioner was not deprived of due process when it was able to file a motion for reconsideration

In ruling that petitioner was not deprived of due process because it was able to file a Motion for Reconsideration, the CA had this to say:

[Petitioner], further, asserts that "the appointed commissioners failed to conduct a hearing to give the parties the opportunity to present their respective evidence. According to [petitioner], the Commissioners Valuation Report was submitted on October 8, 1999 in violation of the appellant's right to due process as it was deprived of the opportunity to present evidence on the determination of the just compensation."

We are not persuaded.

The filing by [petitioner] of a motion for reconsideration accorded it ample opportunity to dispute the findings of the commissioners, so that [petitioner] was as fully heard as there might have been hearing actually taken place. "Denial of due process cannot be successfully invoked by a party who has had the opportunity to be heard on his motion for reconsideration." (Vda. De Chua vs. Court of Appeals, 287 SCRA 33, 50). [16]

In this respect, we are constrained to disagree with the CA ruling, and therefore, set it aside.

While it is true that there is jurisprudence supporting the rule that the filing of a Motion for Reconsideration negates allegations of denial of due process, it is equally true that there are very specific rules for expropriation cases that require the strict observance of procedural and substantive due process, [17] because expropriation cases involve the admittedly painful deprivation of private property for public purposes and the disbursement of public funds as just compensation for the private property taken. Therefore, it is insufficient to hold that a Motion for Reconsideration in an expropriation case cures the defect in due process.

As a corollary, the CA's ruling that "denial of due process cannot be successfully invoked by a party who has had the opportunity to be heard on his motion for reconsideration," citing Vda. de Chua v. Court of Appeals, is not applicable to the instant case considering that the cited case involved a lack of notice of the orders of the trial court in granting letters of administration. It was essentially a private dispute and therefore, no public funds were involved. It is distinct from this expropriation case where grave consequences attached to the orders of the trial court when it determined the just compensation.

The Court takes this opportunity to elucidate the ruling that the opportunity to present evidence incidental to a Motion for Reconsideration will suffice if there was no chance to do so during the trial. We find such situation to be the exception and not the general rule. The opportunity to present evidence during the trial remains a vital requirement in the observance of due process. The trial is materially and substantially different from a hearing on a Motion for Reconsideration. At the trial stage, the party is usually allowed several hearing dates depending on the number of witnesses who will be presented. At the hearing of said motion, the trial court may not be more accommodating with the grant of hearing dates even if the movant has many available witnesses. Before the decision is rendered, a trial court has an open mind on the merits of the parties' positions. After the decision has

been issued, the trial court's view of these positions might be inclined to the side of the winning party and might treat the Motion for Reconsideration and the evidence adduced during the hearing of said motion perfunctorily and in a cavalier fashion. The incident might not receive the evaluation and judgment of an impartial or neutral judge. In sum, the constitutional guarantee of due process still requires that a party should be given the fullest and widest opportunity to adduce evidence during trial, and the availment of a motion for reconsideration will not satisfy a party's right to procedural due process, unless his/her inability to adduce evidence during trial was due to his/her own fault or negligence.

Second Issue: The legal basis for the determination of just compensation was insufficient

In this case, it is not disputed that the commissioners recommended that the just compensation be pegged at PhP 10,000.00 per square meter. The commissioners arrived at the figure in question after their ocular inspection of the property, wherein they considered the surrounding structures, the property's location and, allegedly, the prices of the other, contiguous real properties in the area. Furthermore, based on the commissioners' report, the recommended just compensation was determined as of the time of the preparation of said report on October 5, 1999.

In *B.H. Berkenkotter & Co. v. Court of Appeals*, we held, thus:

Just compensation is defined as the full and fair equivalent of the property sought to be expropriated. The measure is not the taker's gain but the owner's loss. The compensation, to be just, must be fair not only to the owner but also to the taker. Even as undervaluation would deprive the owner of his property without due process, so too would its overvaluation unduly favor him to the prejudice of the public.

To determine just compensation, the trial court should first ascertain the market value of the property, to which should be added the consequential damages after deducting therefrom the consequential benefits which may arise from the expropriation. If the consequential benefits exceed the consequential damages, these items should be disregarded altogether as the basic value of the property should be paid in every case.

The market value of the property is the price that may be agreed upon by parties willing but not compelled to enter into the contract of sale. Not unlikely, a buyer desperate to acquire a piece of property would agree to pay more, and a seller in urgent need of funds would agree to accept less, than what it is actually worth. x x x

Among the factors to be considered in arriving at the fair market value of the property are the cost of acquisition, the current value of like properties, its actual or potential uses, and in the particular case of lands, their size, shape, location, and the tax declarations thereon.

It is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint.[18]

We note that in this case, the filing of the complaint for expropriation preceded the petitioner's entry into the property.

Therefore, it is clear that in this case, the sole basis for the determination of just compensation was the commissioners' ocular inspection of the properties in question, as gleaned from the commissioners' October 5, 1999 report. The trial court's reliance on the said report is a serious error considering that the recommended compensation was highly speculative and had no strong factual moorings. For one, the report did not indicate the fair market value of the lots occupied by the Orchard Golf and Country Club, Golden City Subdivision, Arcontica Sports Complex, and other business establishments cited. Also, the report did not show how convenience facilities, public transportation, and the residential and commercial zoning could have added value to the lots being expropriated.

Moreover, the trial court did not amply explain the nature and application of the "highest and best use" method to determine the just compensation in expropriation cases. No attempt was made to justify the recommended "just price" in the subject report through other sufficient and reliable means such as the holding of a trial or hearing at which the parties could have had adequate opportunity to adduce their own evidence, the testimony of realtors in the area concerned, the fair market value and tax declaration, actual sales of lots in the vicinity of the lot being expropriated on or about the date of the filing of the complaint for expropriation, the pertinent zonal valuation derived from the Bureau of Internal Revenue, among others.

More so, the commissioners did not take into account that the Asian financial crisis in the second semester of 1997 affected the fair market value of the subject lots. Judicial notice can be taken of the fact that after the crisis hit the real estate market, there was a downward trend in the prices of real estate in the country.

Furthermore, the commissioners' report itself is flawed considering that its recommended just compensation was pegged as of October 5, 1999, or the date when the said report was issued, and not the just compensation as of the date of the filing of the complaint for expropriation, or as of November 27, 1998. The period between the time of the filing of the complaint (when just compensation should have been determined), and the time when the commissioners' report recommending the just compensation was issued (or almost one [1] year after the filing of the complaint), may have distorted the correct amount of just compensation.

Clearly, the legal basis for the determination of just compensation in this case is insufficient as earlier enunciated. This being so, the trial court's ruling in this respect should be set aside.

WHEREFORE, the petition is GRANTED. The December 28, 1999 and March 23, 2000 Orders of the Imus, Cavite RTC and the November 18, 2002 Decision of the CA are hereby SET ASIDE. This case is remanded to the said trial court for the proper determination of just compensation in conformity with this Decision. No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

[1] Rollo, pp. 31-37. The Decision was penned by Associate Justice B.A. Adefuin-Dela Cruz, and concurred in by Associate Justices Mercedes Gozo-Dadole and Mariano C. Del Castillo.

[2] Id. at 66-67. The Order was rendered by Executive Judge Lucenito N. Tagle.

[3] Id. at 40-42.

[4] Id. at 40-46.

[5] SEC. 2. Entry of plaintiff upon depositing value with authorized government depository. - Upon the filing of the complaint or at any time thereafter and after due notice to the defendant, the plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the authorized government depository an amount equivalent to the assessed value of the property for purposes of taxation to be held by such bank subject to the orders of the court. Such deposit shall be in money, unless in lieu thereof the court authorizes the deposit of a certificate of deposit of a government bank of the Republic of the Philippines payable on demand to the authorized government depository.

If personal property is involved, its value shall be provisionally ascertained and the amount to be deposited shall be promptly fixed by the court.

After such deposit is made the court shall order the sheriff or other proper officer to forthwith place the plaintiff in

possession of the property involved and promptly submit a report thereof to the court with service of copies to the parties.

[6] Rollo, p. 60.

[7] Id. at 64-65.

[8] Id. at 35.

[9] Supra note 2.

[10] Rollo, pp. 75-76.

[11] SEC. 4. Order of expropriation. - If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first (emphasis supplied).

[12] Supra note 1, at 37.

[13] Rollo, p. 18.

[14] RULES OF COURT, Rule 45, Sec. 1.

[15] Manila Electric Company v. Pineda, G.R. No. 59791, February 13, 1992, 206 SCRA 196, 204.

[16] Supra note 1, at 37.

[17] Supra note 16.

[18] G.R. No. 89980, December 14, 1992, 216 SCRA 584, 586-587, citations omitted.

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