

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. JUAN H. IMPERIAL, RESPONDENT.*G.R. NO. 157753. February 12, 2007*

Ponente: QUISUMBING, J.

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The petition for review before us assails the Decision[1] dated November 23, 2001, of the Court of Appeals in CA-G.R. CV No. 68980, which set aside the Decision[2] dated August 4, 2000, of the Regional Trial Court of Legazpi City, Branch 3, acting as a Special Agrarian Court in Agrarian Case No. 94-01. The petition also prays for the reversal of the Resolution[3] dated March 21, 2003, denying reconsideration.

Respondent Juan H. Imperial owned five parcels of land[4] with a total area of 156.1000 hectares, located in Barangay Pawa, Manito, Albay. Pursuant to the Land Reform Program under Presidential Decree No. 27[5] and Executive Order No. 228,[6] the Department of Agrarian Reform (DAR) placed these lands under its Operation Land Transfer (OLT). On October 21, 1972, the lands were distributed to deserving farmer beneficiaries.

On July 20, 1994, Imperial filed a complaint for determination and payment of just compensation[7] against petitioner Land Bank of the Philippines, the DAR, and the farmer beneficiaries. The case was docketed as Agrarian Case No. 94-01 and raffled to the Regional Trial Court of Legazpi City, Branch 3, as Special Agrarian Court.

During the course of the trial, the court created a commission to examine, investigate and ascertain facts relevant to the dispute including the lands' valuation. On June 21, 1996, the commission submitted a report[8] containing the following findings: (1) the lands were not first-class riceland; (2) the irrigation came from a creek which depended on rains; (3) the harvest was once a year; (4) about fifteen hectares were devoted to non-fruit bearing coconut trees; (5) approximately five hectares were upland rice while the rest of the area was uncultivated; and (6) the lands were rolling hills. Using the formula under P.D. No. 27 and E.O. No. 228 for computing the land value,

$$LV = 2.5 \times AGP \times GSP$$

where LV = Land Value

AGP = Average Gross Production (23 cavans for 1969-1971)

GSP = Government Support Price (P35/cavan in 1972)

the commission fixed the just compensation at P2,012.50/hectare, for a total of P314,151.25. Imperial vigorously objected to the valuation. Thus, the trial court referred the report back to the commission for further reception of evidence. In the meantime, Imperial amended his complaint on January 29, 1997,[9] to reconcile the area of the lands stated in the original complaint with that in the transfer certificates of title.

On August 27, 1997, the commission submitted another report,[10] with the following observations: (1) of the total land area of 156.1000 hectares, only 151.7168 hectares were compensable since 4.3832 hectares were either

used by Imperial or devoted to right of way, barrio site, or feeder road; (2) the irrigated area was only 1,000 square meters; and (3) the lands were generally devoted to upland rice. Using the formula,

$$LV = 2.5 \times AGP \times GSP$$

where LV = Land Value

AGP = Average Gross Production in 1989

(20 cavans at 46 kilos each for unirrigated land)

(40 cavans at 46 kilos each for irrigated land) x 2

GSP = Government Support Price (P3.50/kilo in 1989)

the commission fixed the just compensation at P8,050/hectare for unirrigated area, and P32,200/hectare for irrigated area, for a total of P1,088,251.57. It also computed the just compensation from December 4, 1989.

After due proceedings, the trial court issued on August 4, 2000, a judgment,[11] the decretal portion of which reads:

WHEREFORE, based on the foregoing considerations, the just compensation for the following five (5) lots, namely: (1) TCT No. T-45747; (2) TCT No. T-45748; (3) TCT No. T-457[4]9; (4) TCT No. T-45746 and (5) TCT No. T-45750 with a total compensable area of 151.7128 has. is fixed at PhP2,185,241.50, specifically broken down, as follows:

1.) PhP14,375.00/ha for the unirrigated area or a total of PhP2,179,491.50 for the 151.6168 has.;

2.) PhP57,500.00/ha. for the irrigated area or a total of PhP5,750.50 for the .1000 has.

The Land Bank of the Philippines is therefore ordered to pay the plaintiff the amount of PhP2,185,241.50 in cash or in bonds or in any other mode of payment under Section 18 of R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988 at the option of the landowner.

SO ORDERED.[12]

The trial court declared as non-compensable 4.3832 hectares which were either used by Imperial or devoted to right of way, barrio site, or feeder road. Using the formula,

$$LV = 2.5 \times AGP \times GSP$$

where LV = Land Value

AGP = Average Gross Production in 1989

(23 cavans at 50 kilos each for unirrigated land)

(46 cavans at 50 kilos each for irrigated land) x 2

GSP = Government Support Price (P5/kilo in 1989)

the trial court fixed the just compensation at P14,375/hectare for unirrigated area, and P57,500/hectare for irrigated area, for a total of P2,185,241.50. It also computed the just compensation from December 4, 1989.

The parties elevated the controversy to the Court of Appeals. Finding partly in favor of Imperial, the appellate court, in a decision[13] dated November 23, 2001, set aside the trial court's decision, decreeing thus:

WHEREFORE, the assailed Decision is hereby SET ASIDE. The records of this case are ordered REMANDED to the court of origin for reevaluation of the correct compensation for the land, including the

portions identified as feeder road, right of way and barrio site, but excluding the portion or portions retained by the plaintiff as owner-cultivator, with legal interest thereon at the rate of 6% per annum reckoned from the date of the compensable taking on October 21, 1972.

SO ORDERED.[14]

In a Resolution[15] dated March 21, 2003, the appellate court denied reconsideration. Hence, the instant petition. The petitioner now assigns the following errors:

A.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN INCLUDING THE INTEREST OF 6% PER ANNUM IN THE CONCEPT OF DAMAGES IN COMPUTING THE JUST COMPENSATION FOR THE EXPROPRIATED PROPERTIES UNDER P.D. NO. 27 RATHER THAN APPLYING DAR ADMINISTRATIVE ORDER NO. 13 WHICH WAS UPHELD IN THE CASE OF LBP VS. COURT OF APPEALS AND JOSE PASCUAL, G.R. NO. 128557, DECEMBER 29, 1999.

B.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN CONSIDERING NON-COMPENSABLE AREAS CONSISTING OF FEEDER ROAD, THE RIGHT OF WAY AND THE BARRIO SITE FOR VALUATION AND PAYMENT UNDER R.A. 6657.[16]

The assigned errors pose two principal issues: (1) whether a 6% annual interest should be included in computing the just compensation; and (2) whether the areas used as feeder road, right of way, and barrio site should be considered as compensable.

Let us now consider the first issue involving the annual interest.

Petitioner Land Bank does not dispute that the computation of the just compensation should start from October 21, 1972, and that the Government Support Price (GSP) for palay of P35/cavan in 1972 should be used in the equation. However, it claims that a 6% annual interest in the concept of damages should not be imposed because (1) the delay in the payment of the just compensation was not its fault, and (2) DAR Administrative Order No. 13[17] already provides for the payment of a 6% annual interest, compounded annually, provided that the just compensation is computed in accordance with its prescribed formula.

At the outset, it should be stressed that DAR A.O. No. 13 applies to all landowners: (1) whose lands are actually tenanted as of October 21, 1972, or thereafter, and covered by the OLT; (2) who opted for government-financing through the petitioner as the mode of compensation; and (3) who have not yet been paid the value of their land.[18] It provides a formula for determining the land value and the additional interests it would have earned, to wit:

For palay: $LV = (2.5 \times AGP \times GSP) \times (1.06)^n$

where LV = Land Value

AGP = Average Gross Production

GSP = Government Support Price (P35/cavan in 1972)

n = Number of years from the date of tenancy up to the effectivity date of the Order

Furthermore, DAR A.O. No. 13, as amended, provides that:

- The grant of six percent (6%) yearly interest compounded annually shall be reckoned as follows:

3.1

Tenanted as of 21 October 1972 and covered under OLT

From 21 October 1972 up to the time of actual payment but not later than December 2006

3.2

Tenanted after 21 October 1972 and covered under OLT

From the date when the land was actually tenanted (by virtue of Regional Order of Placement issued prior to August 18, 1987) up to the time of actual payment but not later than December 2006 (Emphasis supplied.)

As can be clearly gleaned from the foregoing, the 6% interest, compounded annually, could be granted only up to the time of actual payment but not later than December 2006. In effect, there could be no award of interest from January 1, 2007 onwards.

Such being the case, it is inequitable to determine the just compensation based solely on the formula provided by DAR A.O. No. 13, as amended. Thus, we return to the guidelines provided under P.D. No. 27 and E.O. No. 228 since the same remained operative despite the passage of Republic Act No. 6657.[19] On this score, E.O. No. 229,[20] which provides for the mechanism of Rep. Act No. 6657, specifically states: "(P)residential Decree No. 27, as amended, shall continue to operate with respect to rice and corn lands, covered thereunder."[21] However, since just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also its payment within a reasonable time from the taking of the land,[22] we think that the appellate court correctly imposed an interest in the nature of damages for the delay. In line with current jurisprudence,[23] we set the legal interest at 12% per annum. To this extent, we agree that we should modify the appellate court's ruling.

Now, concerning the second principal issue.

On the compensability of the areas used as feeder road, right of way, and barrio site, the petitioner claims that the Court of Appeals erred in including them in the computation since they are not devoted to or suitable for agriculture in contemplation of Rep. Act No. 6657 and the title to these areas remained with the respondent.

We must stress, at this juncture, that the taking of private lands under the agrarian reform program partakes of the nature of an expropriation proceeding.[24] In a number of cases, we have stated that just compensation in expropriation proceedings represents the full and fair equivalent of the property taken from its owner by the expropriator. The measure is not the taker's gain, but the owner's loss. To compensate is to render something which is equal in value to that taken or received.[25]

In this case, we are not unaware that the areas used as feeder road, right of way, and barrio site, effectively deprived respondent of the ordinary and beneficial use of his property or of its value. Although such areas were not strictly used for agricultural purposes, the same were diverted to public use. For this reason, we are of the view that respondent should be compensated for what he actually lost and that should include not only the areas

distributed directly to the tenant beneficiaries but also those areas used as feeder road, right of way, and barrio site, which were undoubtedly diverted to the use of the public. The only area that ought to be excluded is the portion or portions retained by the respondent as owner-cultivator for his own use.

WHEREFORE, the instant petition is DENIED for lack of merit. The assailed Decision dated November 23, 2001, of the Court of Appeals in CA-G.R. CV No. 68980 which set aside the Decision dated August 4, 2000, of the Regional Trial Court of Legazpi City, Branch 3, acting as a Special Agrarian Court in Agrarian Case No. 94-01, is AFFIRMED WITH MODIFICATION.

Let the records of this case be immediately REMANDED to the trial court for recomputation of the correct just compensation for the lands taken, including the portions identified as feeder road, right of way, and barrio site, but excluding the portion or portions retained by respondent as owner-cultivator. The trial court is hereby DIRECTED to use the formula prescribed by DAR A.O. No. 13, as amended, which imposed a 6% interest, compounded annually, from the date of the compensable taking on October 21, 1972, until December 31, 2006; and thereafter, at the rate of 12% per annum, until full payment is made.

No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 50-58. Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Eriberto U. Rosario, Jr. and Amelita G. Tolentino concurring.

[2] Records, Vol. I, pp. 381-390.

[3] Rollo, pp. 59-62.

[4] Parcel 1 covered by TCT No. T-45747 contains an area of 646,904 square meters; Parcel 2 covered by TCT No. T-45748 contains an area of 92,870 square meters; Parcel 3 covered by TCT No. T-45749 contains an area of 80,122 square meters; Parcel 4 covered by TCT No. T-45746 contains an area of 655,855 square meters; and Parcel 5 covered by TCT No. T-45750 contains an area of 85,249 square meters. Folder of Documentary Exhibits, pp. 249-261.

[5] DECREES THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR (DONE ON OCTOBER 21, 1972).

[6] DECLARING FULL LAND OWNERSHIP TO QUALIFIED FARMER-BENEFICIARIES COVERED BY PRESIDENTIAL DECREE NO. 27; DETERMINING THE VALUE OF REMAINING UNVALUED RICE AND CORN LANDS SUBJECT OF P.D. NO. 27; AND PROVIDING FOR THE MANNER OF PAYMENT BY THE FARMER-BENEFICIARY AND MODE OF COMPENSATION TO THE LANDOWNER (DONE ON JULY 17, 1987).

[7] *Supra* note 2, at 1-6.

[8] *Id.* at 173-174.

[9] *Id.* at 209-213.

[10] *Id.* at 229-237.

[11] Supra note 2.

[12] Id. at 390.

[13] Supra note 1.

[14] Id. at 57.

[15] Supra note 3.

[16] Rollo, p. 253.

[17] RULES AND REGULATIONS GOVERNING THE GRANT OF INCREMENT OF SIX PERCENT (6%) YEARLY INTEREST COMPOUNDED ANNUALLY ON LANDS COVERED BY PRESIDENTIAL DECREE NO. 27 AND EXECUTIVE ORDER NO. 228 (EFFECTIVE OCTOBER 21, 1994). AMENDED BY DAR A.O. NO. 02, SERIES OF 2004 (ISSUED ON NOVEMBER 4, 2004).

[18] Id.

[19] AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES (APPROVED ON JUNE 10, 1988).

[20] Providing the Mechanism for the Implementation of the Comprehensive Agrarian Reform Program (Approved on July 22, 1987).

[21] Id. at Section 27; See *Sigre v. Court of Appeals*, G.R. No. 109568, August 8, 2002, 387 SCRA 15, 29.

[22] *Republic v. Lim*, G.R. No. 161656, June 29, 2005, 462 SCRA 265, 289; See *Republic v. Court of Appeals*, G.R. No. 147245, March 31, 2005, 454 SCRA 516, 536; *Eslaban, Jr. v. Vda. de Onorio*, G.R. No. 146062, June 28, 2001, 360 SCRA 230, 238. In these cases, the Court imposed an interest of 12% per annum in the nature of damages for delay in payment which in effect makes the obligation on the part of the government one of forbearance.

[23] *Land Bank of the Philippines v. Wycoco*, G.R. Nos. 140160 and 146733, January 13, 2004, 419 SCRA 67, 80; *Republic v. Court of Appeals*, supra.

[24] *Gabatin v. Land Bank of the Philippines*, G.R. No. 148223, November 25, 2004, 444 SCRA 176, 190.

[25] *Bank of the Philippine Islands v. Court of Appeals*, G.R. No. 160890, November 10, 2004, 441 SCRA 637, 643; See *National Power Corporation v. Manubay Agro-Industrial Development Corporation*, G.R. No. 150936, August 18, 2004, 437 SCRA 60, 68.

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