

**REPUBLIC OF THE PHILIPPINES, GENERAL ROMEO ZULUETA,
COMMODORE EDGARDO GALEOS, ANTONIO CABALUNA, DOROTEO
MANTOS & FLORENCIO BELOTINDOS, PETITIONERS, VS.
VICENTE G. LIM, RESPONDENT.**

G.R. NO. 161656. June 29, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Justice is the first virtue of social institutions.[1] When the state wields its power of eminent domain, there arises a correlative obligation on its part to pay the owner of the expropriated property a just compensation. If it fails, there is a clear case of injustice that must be redressed. In the present case, fifty-seven (57) years have lapsed from the time the Decision in the subject expropriation proceedings became final, but still the Republic of the Philippines, herein petitioner, has not compensated the owner of the property. To tolerate such prolonged inaction on its part is to encourage distrust and resentment among our people – the very vices that corrode the ties of civility and tempt men to act in ways they would otherwise shun.

A revisit of the pertinent facts in the instant case is imperative.

On September 5, 1938, the Republic of the Philippines (Republic) instituted a special civil action for expropriation with the Court of First Instance (CFI) of Cebu, docketed as Civil Case No. 781, involving Lots 932 and 939 of the Banilad Friar Land Estate, Lahug, Cebu City, for the purpose of establishing a military reservation for the Philippine Army. Lot 932 was registered in the name of Gervasia Denzon under Transfer Certificate of Title (TCT) No. 14921 with an area of 25,137 square meters, while Lot 939 was in the name of Eulalia Denzon and covered by TCT No. 12560 consisting of 13,164 square meters.

After depositing P9,500.00 with the Philippine National Bank, pursuant to the Order of the CFI dated October 19, 1938, the Republic took possession of the lots. Thereafter, or on May 14, 1940, the CFI rendered its Decision ordering the Republic to pay the Denzons the sum of P4,062.10 as just compensation.

The Denzons interposed an appeal to the Court of Appeals but it was dismissed on March 11, 1948. An entry of judgment was made on April 5, 1948.

In 1950, Jose Galeos, one of the heirs of the Denzons, filed with the National Airports Corporation a claim for rentals for the two lots, but it “denied knowledge of the matter.” Another heir, Nestor Belocura, brought the claim to the Office of then President Carlos Garcia who wrote the Civil Aeronautics Administration and the Secretary of National Defense to expedite action on said claim. On September 6, 1961, Lt. Manuel Cabal rejected the claim but expressed willingness to pay the appraised value of the lots within a reasonable time.

For failure of the Republic to pay for the lots, on September 20, 1961, the Denzons’ successors-in-interest, Francisca Galeos-Valdehueza and Josefina Galeos-Panerio,[2] filed with the same CFI an action for recovery of possession with damages against the Republic and officers of the Armed Forces of the Philippines in possession

of the property. The case was docketed as Civil Case No. R-7208.

In the interim or on November 9, 1961, TCT Nos. 23934 and 23935 covering Lots 932 and 939 were issued in the names of Francisca Valdehueva and Josefina Panerio, respectively. Annotated thereon was the phrase “subject to the priority of the National Airports Corporation to acquire said parcels of land, Lots 932 and 939 upon previous payment of a reasonable market value.”

On July 31, 1962, the CFI promulgated its Decision in favor of Valdehueva and Panerio, holding that they are the owners and have retained their right as such over Lots 932 and 939 because of the Republic’s failure to pay the amount of P4,062.10, adjudged in the expropriation proceedings. However, in view of the annotation on their land titles, they were ordered to execute a deed of sale in favor of the Republic. In view of “the differences in money value from 1940 up to the present,” the court adjusted the market value at P16,248.40, to be paid with 6% interest per annum from April 5, 1948, date of entry in the expropriation proceedings, until full payment.

After their motion for reconsideration was denied, Valdehueva and Panerio appealed from the CFI Decision, in view of the amount in controversy, directly to this Court. The case was docketed as No. L-21032.[3] On May 19, 1966, this Court rendered its Decision affirming the CFI Decision. It held that Valdehueva and Panerio are still the registered owners of Lots 932 and 939, there having been no payment of just compensation by the Republic. Apparently, this Court found nothing in the records to show that the Republic paid the owners or their successors-in-interest according to the CFI decision. While it deposited the amount of P9,500.00, and said deposit was allegedly disbursed, however, the payees could not be ascertained.

Notwithstanding the above finding, this Court still ruled that Valdehueva and Panerio are not entitled to recover possession of the lots but may only demand the payment of their fair market value, ratiocinating as follows:

“Appellants would contend that: (1) possession of Lots 932 and 939 should be restored to them as owners of the same; (2) the Republic should be ordered to pay rentals for the use of said lots, plus attorney’s fees; and (3) the court a quo in the present suit had no power to fix the value of the lots and order the execution of the deed of sale after payment.

It is true that plaintiffs are still the registered owners of the land, there not having been a transfer of said lots in favor of the Government. The records do not show that the Government paid the owners or their successors-in-interest according to the 1940 CFI decision although, as stated, P9,500.00 was deposited by it, and said deposit had been disbursed. With the records lost, however, it cannot be known who received the money (Exh. 14 says: ‘It is further certified that the corresponding Vouchers and pertinent Journal and Cash Book were destroyed during the last World War, and therefore the names of the payees concerned cannot be ascertained.’) And the Government now admits that there is no available record showing that payment for the value of the lots in question has been made (Stipulation of Facts, par. 9, Rec. on Appeal, p. 28).

The points in dispute are whether such payment can still be made and, if so, in what amount. Said lots have been the subject of expropriation proceedings. By final and executory judgment in said proceedings, they were condemned for public use, as part of an airport, and ordered sold to the Government. In fact, the abovementioned title certificates secured by plaintiffs over said lots contained annotations of the right of the National Airports Corporation (now CAA) to pay for and acquire them. It follows that both by virtue of the judgment, long final, in the expropriation suit, as well as the annotations upon their title certificates, plaintiffs are not entitled to recover possession of their expropriated lots – which are still devoted to the public use for which they were expropriated – but only to demand the fair market value of the same.”

Meanwhile, in 1964, Valdehueva and Panerio mortgaged Lot 932 to Vicente Lim, herein respondent,[4] as security for their loans. For their failure to pay Lim despite demand, he had the mortgage foreclosed in 1976. Thus, TCT No. 23934 was cancelled, and in lieu thereof, TCT No. 63894 was issued in his name.

On August 20, 1992, respondent Lim filed a complaint for quieting of title with the Regional Trial Court (RTC), Branch 10, Cebu City, against General Romeo Zulueta, as Commander of the Armed Forces of the Philippines, Commodore Edgardo Galeos, as Commander of Naval District V of the Philippine Navy, Antonio Cabaluna, Doroteo Mantos and Florencio Belotindos, herein petitioners. Subsequently, he amended the complaint to implead the Republic.

On May 4, 2001, the RTC rendered a decision in favor of respondent, thus:

“WHEREFORE, judgment is hereby rendered in favor of plaintiff Vicente Lim and against all defendants, public and private, declaring plaintiff Vicente Lim the absolute and exclusive owner of Lot No. 932 with all the rights of an absolute owner including the right to possession. The monetary claims in the complaint and in the counter claims contained in the answer of defendants are ordered Dismissed.

Petitioners elevated the case to the Court of Appeals, docketed therein as CA-G.R. CV No. 72915. In its Decision[5] dated September 18, 2003, the Appellate Court sustained the RTC Decision, thus:

“Obviously, defendant-appellant Republic evaded its duty of paying what was due to the landowners. The expropriation proceedings had already become final in the late 1940’s and yet, up to now, or more than fifty (50) years after, the Republic had not yet paid the compensation fixed by the court while continuously reaping benefits from the expropriated property to the prejudice of the landowner. x x x. This is contrary to the rules of fair play because the concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also the payment for the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered “just” for the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more, in this case more than 50 years, before actually receiving the amount necessary to cope with the loss. To allow the taking of the landowners’ properties, and in the meantime leave them empty-handed by withholding payment of compensation while the government speculates on whether or not it will pursue expropriation, or worse, for government to subsequently decide to abandon the property and return it to the landowners, is undoubtedly an oppressive exercise of eminent domain that must never be sanctioned. (Land Bank of the Philippines vs. Court of Appeals, 258 SCRA 404).

x x x x x

An action to quiet title is a common law remedy for the removal of any cloud or doubt or uncertainty on the title to real property. It is essential for the plaintiff or complainant to have a legal or equitable title or interest in the real property, which is the subject matter of the action. Also the deed, claim, encumbrance or proceeding that is being alleged as cloud on plaintiff’s title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy (Robles vs. Court of Appeals, 328 SCRA 97). In view of the foregoing discussion, clearly, the claim of defendant-appellant Republic constitutes a cloud, doubt or uncertainty on the title of plaintiff-appellee Vicente Lim that can be removed by an action to quiet title.

WHEREFORE, in view of the foregoing, and finding no reversible error in the appealed May 4, 2001 Decision of Branch 9, Regional Trial Court of Cebu City, in Civil Case No. CEB-12701, the said decision is UPHELD AND AFFIRMED. Accordingly, the appeal is DISMISSED for lack of merit.”

Undaunted, petitioners, through the Office of the Solicitor General, filed with this Court a petition for review on certiorari alleging that the Republic has remained the owner of Lot 932 as held by this Court in *Valdehueza vs. Republic*. [6]

In our Resolution dated March 1, 2004, we denied the petition outright on the ground that the Court of Appeals did not commit a reversible error. Petitioners filed an urgent motion for reconsideration but we denied the same with finality in our Resolution of May 17, 2004.

On May 18, 2004, respondent filed an ex-parte motion for the issuance of an entry of judgment. We only noted the motion in our Resolution of July 12, 2004.

On July 7, 2004, petitioners filed an urgent plea/motion for clarification, which is actually a second motion for reconsideration. Thus, in our Resolution of September 6, 2004, we simply noted without action the motion considering that the instant petition was already denied with finality in our Resolution of May 17, 2004.

On October 29, 2004, petitioners filed a very urgent motion for leave to file a motion for reconsideration of our Resolution dated September 6, 2004 (with prayer to refer the case to the En Banc). They maintain that the Republic's right of ownership has been settled in Valdehueza.

The basic issue for our resolution is whether the Republic has retained ownership of Lot 932 despite its failure to pay respondent's predecessors-in-interest the just compensation therefor pursuant to the judgment of the CFI rendered as early as May 14, 1940.

Initially, we must rule on the procedural obstacle.

While we commend the Republic for the zeal with which it pursues the present case, we reiterate that its urgent motion for clarification filed on July 7, 2004 is actually a second motion for reconsideration. This motion is prohibited under Section 2, Rule 52, of the 1997 Rules of Civil Procedure, as amended, which provides:

“Sec. 2. Second motion for reconsideration. – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.”

Consequently, as mentioned earlier, we simply noted without action the motion since petitioners' petition was already denied with finality.

Considering the Republic's urgent and serious insistence that it is still the owner of Lot 932 and in the interest of justice, we take another hard look at the controversial issue in order to determine the veracity of petitioner's stance.

One of the basic principles enshrined in our Constitution is that no person shall be deprived of his private property without due process of law; and in expropriation cases, an essential element of due process is that there must be just compensation whenever private property is taken for public use.^[7] Accordingly, Section 9, Article III, of our Constitution mandates: “Private property shall not be taken for public use without just compensation.”

The Republic disregarded the foregoing provision when it failed and refused to pay respondent's predecessors-in-interest the just compensation for Lots 932 and 939. The length of time and the manner with which it evaded payment demonstrate its arbitrary high-handedness and confiscatory attitude. The final judgment in the expropriation proceedings (Civil Case No. 781) was entered on April 5, 1948. More than half of a century has passed, yet, to this day, the landowner, now respondent, has remained empty-handed. Undoubtedly, over 50 years of delayed payment cannot, in any way, be viewed as fair. This is more so when such delay is accompanied by bureaucratic hassles. Apparent from Valdehueza is the fact that respondent's predecessors-in-interest were given a “run around” by the Republic's officials and agents. In 1950, despite the benefits it derived from the use of the two lots, the National Airports Corporation denied knowledge of the claim of respondent's predecessors-in-interest. Even President Garcia, who sent a letter to the Civil Aeronautics Administration and the Secretary of National Defense to expedite the payment, failed in granting relief to them. And, on September 6, 1961, while the Chief of Staff of the Armed Forces expressed willingness to pay the appraised value of the lots, nothing happened.

The Court of Appeals is correct in saying that Republic's delay is contrary to the rules of fair play, as “just

compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also the payment for the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered 'just.'" In jurisdictions similar to ours, where an entry to the expropriated property precedes the payment of compensation, it has been held that if the compensation is not paid in a reasonable time, the party may be treated as a trespasser ab initio.[8]

Corollarily, in *Provincial Government of Sorsogon vs. Vda. De Villaroya*,[9] similar to the present case, this Court expressed its disgust over the government's vexatious delay in the payment of just compensation, thus:

"The petitioners have been waiting for more than thirty years to be paid for their land which was taken for use as a public high school. As a matter of fair procedure, it is the duty of the Government, whenever it takes property from private persons against their will, to supply all required documentation and facilitate payment of just compensation. The imposition of unreasonable requirements and vexatious delays before effecting payment is not only galling and arbitrary but a rich source of discontent with government. There should be some kind of swift and effective recourse against unfeeling and uncaring acts of middle or lower level bureaucrats."

We feel the same way in the instant case.

More than anything else, however, it is the obstinacy of the Republic that prompted us to dismiss its petition outright. As early as May 19, 1966, in *Valdehueza*, this Court mandated the Republic to pay respondent's predecessors-in-interest the sum of P16,248.40 as "reasonable market value of the two lots in question." Unfortunately, it did not comply and allowed several decades to pass without obeying this Court's mandate. Such prolonged obstinacy bespeaks of lack of respect to private rights and to the rule of law, which we cannot countenance. It is tantamount to confiscation of private property. While it is true that all private properties are subject to the need of government, and the government may take them whenever the necessity or the exigency of the occasion demands, however, the Constitution guarantees that when this governmental right of expropriation is exercised, it shall be attended by compensation.[10] From the taking of private property by the government under the power of eminent domain, there arises an implied promise to compensate the owner for his loss.[11]

Significantly, the above-mentioned provision of Section 9, Article III of the Constitution is not a grant but a limitation of power. This limiting function is in keeping with the philosophy of the Bill of Rights against the arbitrary exercise of governmental powers to the detriment of the individual's rights. Given this function, the provision should therefore be strictly interpreted against the expropriator, the government, and liberally in favor of the property owner.[12]

Ironically, in opposing respondent's claim, the Republic is invoking this Court's Decision in *Valdehueza*, a Decision it utterly defied. How could the Republic acquire ownership over Lot 932 when it has not paid its owner the just compensation, required by law, for more than 50 years? The recognized rule is that title to the property expropriated shall pass from the owner to the expropriator only upon full payment of the just compensation. Jurisprudence on this settled principle is consistent both here and in other democratic jurisdictions. In *Association of Small Landowners in the Philippines, Inc. et al., vs. Secretary of Agrarian Reform*,[13] thus:

"Title to property which is the subject of condemnation proceedings does not vest the condemnor until the judgment fixing just compensation is entered and paid, but the condemnor's title relates back to the date on which the petition under the Eminent Domain Act, or the commissioner's report under the Local Improvement Act, is filed.

x x x Although the right to appropriate and use land taken for a canal is complete at the time of entry, title to the property taken remains in the owner until payment is actually made. (Emphasis supplied.)

In *Kennedy v. Indianapolis*, the US Supreme Court cited several cases holding that title to property does not pass to the condemnor until just compensation had actually been made. In fact, the decisions appear to be uniform to this effect. As early as 1838, in *Rubottom v. McLure*, it was held that ‘actual payment to the owner of the condemned property was a condition precedent to the investment of the title to the property in the State’ albeit ‘not to the appropriation of it to public use.’ In *Rexford v. Knight*, the Court of Appeals of New York said that the construction upon the statutes was that the fee did not vest in the State until the payment of the compensation although the authority to enter upon and appropriate the land was complete prior to the payment. Kennedy further said that ‘both on principle and authority the rule is . . . that the right to enter on and use the property is complete, as soon as the property is actually appropriated under the authority of law for a public use, but that the title does not pass from the owner without his consent, until just compensation has been made to him.’”

Our own Supreme Court has held in *Visayan Refining Co. v. Camus and Paredes*, that:

‘If the laws which we have exhibited or cited in the preceding discussion are attentively examined it will be apparent that the method of expropriation adopted in this jurisdiction is such as to afford absolute reassurance that no piece of land can be finally and irrevocably taken from an unwilling owner until compensation is paid...’”(Emphasis supplied.)

Clearly, without full payment of just compensation, there can be no transfer of title from the landowner to the expropriator. Otherwise stated, the Republic’s acquisition of ownership is conditioned upon the full payment of just compensation within a reasonable time.[14]

Significantly, in *Municipality of Biñan v. Garcia*[15] this Court ruled that the expropriation of lands consists of two stages, to wit:

“x x x The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, “of condemnation declaring that the plaintiff has a lawful right to take the property sought to be condemned, 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 filing of the complaint” x x x.

The second phase of the eminent domain action is concerned with the determination by the court of “the just compensation for the property sought to be taken.” This is done by the court with the assistance of not more than three (3) commissioners. x x x.

It is only upon the completion of these two stages that expropriation is said to have been completed. In *Republic v. Salem Investment Corporation*,[16] we ruled that, “the process is not completed until payment of just compensation.” Thus, here, the failure of the Republic to pay respondent and his predecessors-in-interest for a period of 57 years rendered the expropriation process incomplete.

The Republic now argues that under *Valdehueza*, respondent is not entitled to recover possession of Lot 932 but only to demand payment of its fair market value. Of course, we are aware of the doctrine that “non-payment of just compensation (in an expropriation proceedings) does not entitle the private landowners to recover possession of the expropriated lots.” This is our ruling in the recent cases of *Republic of the Philippines vs. Court of Appeals, et al.*,[17] and *Reyes vs. National Housing Authority*. [18] However, the facts of the present case do not justify its application. It bears stressing that the Republic was ordered to pay just compensation twice, the first was in the expropriation proceedings and the second, in *Valdehueza*. Fifty-seven (57) years have passed since then. We cannot but construe the Republic’s failure to pay just compensation as a deliberate refusal on its part. Under such circumstance, recovery of possession is in order. In several jurisdictions, the courts held that recovery of possession may be had when property has been wrongfully taken or is wrongfully retained by one claiming to act

under the power of eminent domain[19] or where a rightful entry is made and the party condemning refuses to pay the compensation which has been assessed or agreed upon;[20] or fails or refuses to have the compensation assessed and paid.[21]

The Republic also contends that where there have been constructions being used by the military, as in this case, public interest demands that the present suit should not be sustained.

It must be emphasized that an individual cannot be deprived of his property for the public convenience.[22] In *Association of Small Landowners in the Philippines, Inc. vs. Secretary of Agrarian Reform*,[23] we ruled:

“One of the basic principles of the democratic system is that where the rights of the individual are concerned, the end does not justify the means. It is not enough that there be a valid objective; it is also necessary that the means employed to pursue it be in keeping with the Constitution. Mere expediency will not excuse constitutional shortcuts. There is no question that not even the strongest moral conviction or the most urgent public need, subject only to a few notable exceptions, will excuse the bypassing of an individual's rights. It is no exaggeration to say that a person invoking a right guaranteed under Article III of the Constitution is a majority of one even as against the rest of the nation who would deny him that right. The right covers the person's life, his liberty and his property under Section 1 of Article III of the Constitution. With regard to his property, the owner enjoys the added protection of Section 9, which reaffirms the familiar rule that private property shall not be taken for public use without just compensation.”

The Republic's assertion that the defense of the State will be in grave danger if we shall order the reversion of Lot 932 to respondent is an overstatement. First, Lot 932 had ceased to operate as an airport. What remains in the site is just the National Historical Institute's marking stating that Lot 932 is the “former location of Lahug Airport.” And second, there are only thirteen (13) structures located on Lot 932, eight (8) of which are residence apartments of military personnel. Only two (2) buildings are actually used as training centers. Thus, practically speaking, the reversion of Lot 932 to respondent will only affect a handful of military personnel. It will not result to “irreparable damage” or “damage beyond pecuniary estimation,” as what the Republic vehemently claims.

We thus rule that the special circumstances prevailing in this case entitle respondent to recover possession of the expropriated lot from the Republic. Unless this form of swift and effective relief is granted to him, the grave injustice committed against his predecessors-in-interest, though no fault or negligence on their part, will be perpetuated. Let this case, therefore, serve as a wake-up call to the Republic that in the exercise of its power of eminent domain, necessarily in derogation of private rights, it must comply with the Constitutional limitations. This Court, as the guardian of the people's right, will not stand still in the face of the Republic's oppressive and confiscatory taking of private property, as in this case.

At this point, it may be argued that respondent Vicente Lim acted in bad faith in entering into a contract of mortgage with Valdehueza and Panerio despite the clear annotation in TCT No. 23934 that Lot 932 is “subject to the priority of the National Airports Corporation [to acquire said parcels of land] x x x upon previous payment of a reasonable market value.”

The issue of whether or not respondent acted in bad faith is immaterial considering that the Republic did not complete the expropriation process. In short, it failed to perfect its title over Lot 932 by its failure to pay just compensation. The issue of bad faith would have assumed relevance if the Republic actually acquired title over Lot 932. In such a case, even if respondent's title was registered first, it would be the Republic's title or right of ownership that shall be upheld. But now, assuming that respondent was in bad faith, can such fact vest upon the Republic a better title over Lot 932? We believe not. This is because in the first place, the Republic has no title to speak of.

At any rate, assuming that respondent had indeed knowledge of the annotation, still nothing would have prevented him from entering into a mortgage contract involving Lot 932 while the expropriation proceeding was pending. Any person who deals with a property subject of an expropriation does so at his own risk, taking into account the ultimate possibility of losing the property in favor of the government. Here, the annotation merely served as a caveat that the Republic had a preferential right to acquire Lot 932 upon its payment of a “reasonable market value.” It did not proscribe Valdehueza and Panerio from exercising their rights of ownership including their right to mortgage or even to dispose of their property. In *Republic vs. Salem Investment Corporation*,^[24] we recognized the owner’s absolute right over his property pending completion of the expropriation proceeding, thus:

“It is only upon the completion of these two stages that expropriation is said to have been completed. Moreover, it is only upon payment of just compensation that title over the property passes to the government. Therefore, until the action for expropriation has been completed and terminated, ownership over the property being expropriated remains with the registered owner. Consequently, the latter can exercise all rights pertaining to an owner, including the right to dispose of his property subject to the power of the State ultimately to acquire it through expropriation.

It bears emphasis that when Valdehueza and Panerio mortgaged Lot 932 to respondent in 1964, they were still the owners thereof and their title had not yet passed to the petitioner Republic. In fact, it never did. Such title or ownership was rendered conclusive when we categorically ruled in Valdehueza that: “It is true that plaintiffs are still the registered owners of the land, there not having been a transfer of said lots in favor of the Government.”

For respondent’s part, it is reasonable to conclude that he entered into the contract of mortgage with Valdehueza and Panerio fully aware of the extent of his right as a mortgagee. A mortgage is merely an accessory contract intended to secure the performance of the principal obligation. One of its characteristics is that it is inseparable from the property. It adheres to the property regardless of who its owner may subsequently be.^[25] Respondent must have known that even if Lot 932 is ultimately expropriated by the Republic, still, his right as a mortgagee is protected. In this regard, Article 2127 of the Civil Code provides:

“Art. 2127. The mortgage extends to the natural accessions, to the improvements, growing fruits, and the rents or income not yet received when the obligation becomes due, and to the amount of the indemnity granted or owing to the proprietor from the insurers of the property mortgaged, or in virtue of expropriation for public use, with the declarations, amplifications, and limitations established by law, whether the estate remains in the possession of the mortgagor or it passes in the hands of a third person.

In summation, while the prevailing doctrine is that “the non-payment of just compensation does not entitle the private landowner to recover possession of the expropriated lots,^[26] however, in cases where the government failed to pay just compensation within five (5)^[27] years from the finality of the judgment in the expropriation proceedings, the owners concerned shall have the right to recover possession of their property. This is in consonance with the principle that “the government cannot keep the property and dishonor the judgment.”^[28] To be sure, the five-year period limitation will encourage the government to pay just compensation punctually. This is in keeping with justice and equity. After all, it is the duty of the government, whenever it takes property from private persons against their will, to facilitate the payment of just compensation. In *Cosculluela v. Court of Appeals*,^[29] we defined just compensation as not only the correct determination of the amount to be paid to the property owner but also the payment of the property within a reasonable time. Without prompt payment, compensation cannot be considered “just.”

WHEREFORE, the assailed Decision of the Court of Appeals in CA-G.R. CV No. 72915 is AFFIRMED in toto.

The Republic’s motion for reconsideration of our Resolution dated March 1, 2004 is DENIED with FINALITY.

No further pleadings will be allowed.

Let an entry of judgment be made in this case.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Rawls, A Theory of Justice (1971) at 4.

[2] They were joined by their husbands, Angel Valdehueza and Pablo Panerio, and father, Jose Galeos.

[3] May 19, 1966, 17 SCRA 107.

[4] The mortgage was duly annotated at the back of the mortgagors' title in 1964, while the Decision of this Court in Valdehueza vs. Republic was annotated in 1974.

[5] Penned by Justice Sergio L. Pestaño (retired) and concurred in by Justices Perlita J. Tria Tirona and Jose C. Mendoza.

[6] Supra.

[7] Coscuella vs. Court of Appeals, No. L-77765, August 15, 1988, 164 SCRA 393, citing Province of Pangasinan vs. CFI Judge of Pangasinan, Branch VIII, 80 SCRA 117, 120-121 (1977).

[8] Law of Eminent Domain, Third Edition, Volume II § 931 citing Cushman vs. Smith, 34 Me. 247; and see Davis vs. Russel, 47 Me. 443.

[9] No. L-64037, August 27, 1987, 153 SCRA 291.

[10] 26 Am Jur 2d § 168.

[11] Ibid.

[12] Cruz, Constitutional Law, 1995 Ed., at 58-59.

[13] G.R. No. 78742, July 14, 1989, 175 SCRA 343.

[14] "Just compensation is described as a full and fair equivalent of the property taken from the private owner by the expropriator. This is intended to indemnify the owner fully for the loss he has sustained as a result of the expropriation. The measure of this compensation is not the taker's gain but the owner's loss. The word just is used to intensify the meaning of the word compensation, to convey the idea that the equivalent to be rendered for the property taken shall be real, substantial, full, ample." (Manila Railroad Co. vs. Velasquez, 32 Phil. 286).

[15] G.R. No. 69260, December 22, 1989, 180 SCRA 576, 583-584.

[16] G.R. No. 137569, June 23, 2000, 334 SCRA 320, 329.

[17] G.R. No. 146587, July 2, 2002, 383 SCRA 611.

[18] G.R. No. 147511, January 20, 2003, 395 SCRA 494.

[19] Law of Eminent Domain, Third Edition, Volume II § 927 citing Robinson vs. Southern California Ry.Co., 129 Cal. 8, 61 Pac. 947; Meeker vs. Chicago, 23 Ill. App. 23; Wilson vs. Muskegon etc. R.R. Co., 132 Mich. 469,

93 N.W. 1059; Illinois Cent.R.R. Co. vs. Hoskins, 80 Miss. 730, 32 So. 150, 92 Am St. Rep. 612; McClinton vs. Pittsburg etc. Ry Co., 66 Pa St. 404

[20] Id., citing White vs. Wabash, St. Louis & Pacific Ry. Co., 64 Ia. 281,20 N.W. 436; St. Joseph & Denver City R.R. Co. vs. Callender, 13 Kan. 496; Blackshire vs. Atchison,Topeka and Sta. Fe R.R. Co., 13 Kan. 514; Kanne v. Minneapolis & St. Louis Ry.Co., 30 Minn. 423; Bartleson vs. Minneapolis, 33 Minn. 468; Wheeling etc. R.R.Co. vs. Warrell, 122 Pa St. 613, 16 Alt 20

[21] Id., citing Connellsville Gas Coal Co. vs. Baltimore, etc. R.R. Co., 216 Pa St.309, 65 Atl. 669.

[22] Law of Eminent Domain, Third Edition, Volume II § 929 citing Hooper vs. Columbus & Western Ry.Co., 78 Ala. 213; Stratten vs. Great Western & Bradford Ry.Co., 40 L.J. Eq. 50. In the latter case the court says. “With regard to what is said as to public interests, I am not inclined to listen to any suggestion of public interest as against private rights acquired in a lawful way. I do not think that the interest of the public in using something that is provided for their convenience is to be upheld at the price of saying that a person’s property is to be confiscated for that purpose. A man who comes to this court is entitled to have his rights ascertained and declared, however, inconvenient it may be to third persons to whom it may be a convenience to have the use of his property.”

[23] Supra at 375-376.

[24] Supra.

[25] Paras, Civil Code of the Philippines Annotated, 14th Ed., Book V, at 1021.

[26] Republic of the Philippines vs. Court of Appeals, supra. and Reyes vs. National Housing Authority, supra.

[27] Section 6, Rule 39 provides that: “A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.”

[28] Commissioner of Public Highways v. San Diego, No. L-30098, February 18, 1970.

[29] No. L-77765, August 15, 1988, 164 SCRA 393.

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