

MANILA INTERNATIONAL AIRPORT AUTHORITY AND FRANCISCO E. ATAYDE, PETITIONERS, VS. JOAQUIN RODRIGUEZ, RESPONDENT.

G.R. NO. 161836. February 28, 2006

Ponente: TINGA, J.

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TINGA, J.:

Once again the perennial clash between government taking for public purpose, on one hand, and individual property rights, on the other, comes to fore, with the present case rendered interesting by a couple of twists. Apparently the taking was effected without the aegis of an expropriation case and yet the present owner of the property who is claiming compensation purchased it knowing that it has long been used as part of the airport runway.

In the early seventies, petitioner Manila International Airport Authority (MIAA), the government-owned and controlled corporation managing and operating the Ninoy Aquino International Airport Complex, implemented expansion programs for its runway. This necessitated the acquisition and occupation of some of the properties surrounding its premises. Expropriation proceedings were thus initiated over most of the properties.

On 12 January 1996, the MIAA through its then General Manager, petitioner Francisco Atayde (Atayde), received a letter^[1] from respondent Joaquin Rodriguez (Rodriguez) proposing to sell at P2,350.00 per square meter, one of the lots already occupied by the expanded runway but assumed as not yet expropriated by the MIAA. The proposal did not ripen to a deal. Subsequently, on 29 April 1996, Rodriguez bought the bigger lot a portion of which was occupied by the runway, as well as all the rights to claim reasonable rents and damages for the occupation, from its owner then, Buck Estate, Inc., for P4,000,000.00.^[2] The property purchased per the covering title^[3] has a total area of 9,687 square meters, of which a portion consisting of 7,687.5 square meters was then already occupied by the runway. This occupied portion is hereinafter referred to as the subject lot.

In a letter dated 20 January 1997, Rodriguez, through counsel, demanded from the MIAA full payment for the property and back rentals for 27 years, amounting to P468,800,000.00.^[4] As he did not reach an agreement with the MIAA, Rodriguez filed a case for accion reivindicatoria with damages.^[5] Finding that the MIAA had illegally taken possession of the property, the trial court held:

WHEREFORE, judgment is hereby rendered:

- Ordering defendant to pay plaintiff the amount of P70,868,936.72 as rental for the property from 1972 to 1998;
- Ordering defendant to pay P15,000.00 per square meter as purchase price of the property occupied by it;
- Ordering defendant to pay exemplary damages in the amount of P1,000,000.00;
- Ordering defendant to pay attorney's fees equivalent to 5% of the amount due.

SO ORDERED.^[6]

The MIAA elevated the case to the Court of Appeals, imputing as errors: (i) the award of rentals commencing from 1972; (ii) the award of exemplary damages; and (iii) the order to pay P145,305,000.00 as purchase price of the property.[7] In its Decision of 4 July 2003, the Court of Appeals modified the trial court's Decision, holding that Rodriguez is entitled to back rentals only from the time he became the registered owner of the property in 1996. According to the appellate court, the award of rentals was not based on a contract of lease; rather, it was a grant of damages representing unearned rentals or unrealized profits. Such damages, it was explained, must have been inflicted directly upon the person seeking the indemnification; thus, Rodriguez cannot claim damages he did not personally sustain or unrealized profits before he acquired the property.[8]

The parties filed separate motions for reconsideration.[9] On 28 January 2004, the Court of Appeals issued a Resolution, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court resolves to:

(1)

PARTIALLY GRANT plaintiff-appellees' motion for reconsideration by including the following rate of legal interest in the award of rentals:

"Six (6%) percent per annum to be computed from the time of the judicial demand and twelve (12%) percent interest, in lieu of the six (6%) percent, upon the finality of the decision until the payment thereof."

(2)

DENY defendant-appellants' motion for reconsideration for lack of merit.

SO ORDERED.[10]

Both the MIAA and Atayde, as petitioners, have thus come before this Court. They claim that Rodriguez was a buyer in bad faith, having purchased the subject lot in a highly speculative and scheming manner,[11] and in anticipation of a grossly disproportionate amount of profit at the expense of the Government.[12] This bad faith, according to petitioners, was made evident by the fact that: (i) Rodriguez knew that the airport had been occupying the subject property even before he bought it, and he bought it at the very low price of P4,000,000.00; (ii) three months before he purchased the property, Rodriguez had written to Atayde, claiming to have the certificate of title in his name and offering to sell the lot to the MIAA for P2,350.00 per square meter; and (iii) after purchasing the property, Rodriguez increased his asking price to P9,000.00 per square meter.[13] Since Rodriguez was a buyer in bad faith, petitioners stress that the decisions of the courts below entitling him to amass profits of more than P200,000,000.00 is contrary to morals, good customs and public policy, and would lead to his unjust enrichment.[14]

Further, petitioners allege that there is no basis for awarding exemplary damages and attorney's fees in favor of Rodriguez since the MIAA in fact exerted efforts to negotiate with Rodriguez. Considering that the Court of Appeals had ruled that Rodriguez could not claim damages in the form of rentals from 1972 to 1995, the alleged encroachment starting in 1972 should not be used as basis for computing and awarding damages and attorney's fees, petitioners add.[15]

Petitioners posit that compared to Rodriguez's conduct of bad faith, the MIAA acted in good faith when it occupied the subject lot. They claim that the property, which was then comprised of two (2) smaller lots owned by one Eugenio Cruz, had already been expropriated by the Republic of the Philippines as early as the 1970s. Since then, and after the expansion of the runway in 1972, nobody had attempted to recover the subject lot or to demand compensation therefor (except Rodriguez).[16]

Finally, even assuming that the MIAA is required to pay compensation for the subject lot once more, the same could not be at the current price of P15,000.00 per square meter as ruled by the appellate court, but rather in the price at the time of the taking,[17] petitioners close.

On the other hand, Rodriguez argues that the instant petition calls for a review of the finding of facts of the Court of Appeals which is not allowed in a petition for certiorari under Rule 45. Besides, the appellate court did not commit any reversible error.

Private property shall not be taken for public use without just compensation.[18] This is a constitutional mandate that we must once more put in force. Pertinently, therefore, the Court must determine the basis of compensation, as well as the kind and form of damages due Rodriguez as a consequence of the MIAA's use and occupation of the subject lot. Likewise, the Court has to decide on the alleged bad faith on the part of Rodriguez in purchasing the property.

The petition is partly meritorious.

While the instant case stemmed from the accion reivindicatoria that Rodriguez had filed, it essentially revolves around the taking of the subject lot by the MIAA. There is "taking" when the expropriator enters private property not only for a momentary period but for a more permanent duration, or for the purpose of devoting the property to a public use in such a manner as to oust the owner and deprive him of all beneficial enjoyment thereof.[19] In this context, there was taking when the MIAA occupied a portion thereof for its expanded runway.

The instant case is certainly neither unique nor of first impression. Where actual taking was made without the benefit of expropriation proceedings, and the owner sought recovery of the possession of the property prior to the filing of expropriation proceedings, the Court has invariably ruled that it is the value of the property at the time of taking that is controlling for purposes of compensation.

Thus, in *Commissioner of Public Highways v. Burgos*,[20] wherein it took the owner of a parcel of land thirty-five (35) years before she filed a case for recovery of possession taken by the local government unit for a road-right-of-way purpose, this Court held:

...there being no other legal provision cited which would justify a departure from the rule that just compensation is determined on the basis of the value of the property at the time of the taking thereof in expropriation by the Government, the value of the property as it is when the Government took possession of the land in question, not the increased value resulting from the passage of time which invariably brings unearned increment to landed properties, represents the true value to be paid as just compensation for the property taken.[21]

In *Ansaldo v. Tantuico, Jr.*,[22] where the owners of two (2) lots used by the Government for road widening sought compensation twenty-six (26) years after the lots were taken, the Court ruled in the same vein, thus:

The sole question thus confronting the Court involves the precise time at which just compensation should be fixed, whether as of the time of actual taking of possession by the expropriating entity or, as the *AnsalDOS* maintain, only after conveyance of title to the expropriator pursuant to expropriation proceedings duly instituted since it is only at such a time that the constitutional requirements of due process aside from those of

just compensation may be fully met.[23]

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It is as of the time of such a taking, to repeat, that the just compensation for the property is to be established. As stated in *Republic v. Philippine National Bank*,

"... (W)hen plaintiff takes possession before the institution of the condemnation proceedings, the value should be fixed as of the time of the taking of said possession, not of filing of the complaint and the latter should be the basis for the determination of the value, when the taking of the property involved coincides with or is subsequent to, the commencement of the proceedings. Indeed, otherwise, the provision of Rule 69, Section 3, directing that compensation 'be determined as of the date of the filing of the complaint' would never be operative. As intimated in *Republic v. Lara* (supra), said provision contemplates 'normal circumstances,' under which 'the complaint coincides or even precedes the taking of the property by the plaintiff.'"

The reason for the rule, as pointed out in *Republic v. Lara*, is that —

"... (W)here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just; i.e., 'just not only to the individual whose property is taken,' 'but to the public, which is to pay for it.'"

Clearly, then, the value of the *Ansaldos*' property must be ascertained as of the year 1947, when it was actually taken, and not at the time of the filing of the expropriation suit, which, by the way, still has to be done. It is as of that time that the real measure of their loss may fairly be adjudged. The value, once fixed, shall earn interest at the legal rate until full payment is effected, conformably with other principles laid down by case law.[24]

The ruling was reiterated in *Eslaban v. Vda. De Onorio*.^[25] There, a main irrigation canal was constructed over a piece of land by the National Irrigation Administration but the property owner filed the complaint seeking compensation only nine (9) years later. The Court declared:

Thus, the value of the property must be determined either as of the date of the taking of the property or the filing of the complaint, "whichever came first." Even before the new rule, however, it was already held in *Commissioner of Public Highways v. Burgos* that the price of the land at the time of taking, not its value after the passage of time, represents the true value to be paid as just compensation. It was, therefore, error for the Court of Appeals to rule that the just compensation to be paid to respondent should be determined as of the filing of the complaint in 1990, and not the time of its taking by the NIA in 1981, because petitioner was allegedly remiss in its obligation to pay respondent, and it was respondent who filed the complaint. In the case of *Burgos*, it was also the property owner who brought the action for compensation against the government after 25 years since the taking of his property for the construction of a road.

Indeed, the value of the land may be affected by many factors. It may be enhanced on account of its taking for public use, just as it may depreciate. As observed in *Republic v. Lara*:

[W]here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or there may have been a natural increase in the value of the property from the time it is taken to the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just, i.e., "just" not only to the individual

whose property is taken, "but to the public, which is to pay for it"

In this case, the proper valuation for the property in question is P16,047.61 per hectare, the price level for 1982, based on the appraisal report submitted by the commission (composed of the provincial treasurer, assessor, and auditor of South Cotabato) constituted by the trial court to make an assessment of the expropriated land and fix the price thereof on a per hectare basis.[26]

Per the findings of the trial court,[27] the subject lot was occupied as a runway of the MIAA starting in 1972. Thus, the value of the lot in 1972 should serve as the basis for the award of compensation to the owner. However, said value does not appear in the record.

Now, the question of actual damages for the occupation of the subject lot.

Undeniably, the MIAA's illegal occupation for more than twenty (20) years has resulted in pecuniary loss to Rodriguez and his predecessors-in-interest. Such pecuniary loss entitles him to adequate compensation in the form of actual or compensatory damages,[28] which in this case should be the legal interest (6%)[29] on the value of the land at the time of taking, from said point up to full payment by the MIAA.[30] This is based on the principle that interest "runs as a matter of law and follows from the right of the landowner to be placed in as good position as money can accomplish, as of the date of the taking." [31]

The award of interest renders unwarranted the grant of back rentals as extended by the courts below. In *Republic v. Lara, et al.*, [32] the Court ruled that the indemnity for rentals is inconsistent with a property owner's right to be paid legal interest on the value of the property, for if the condemnor is to pay the compensation due to the owners from the time of the actual taking of their property, the payment of such compensation is deemed to retroact to the actual taking of the property; and, hence, there is no basis for claiming rentals from the time of actual taking.[33] More explicitly, the Court held in *Republic v. Garcellano* [34] that :

The uniform rule of this Court, however, is that this compensation must be, not in the form of rentals, but by way of 'interest from the date that the company [or entity] exercising the right of eminent domain take 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 deposited in court x x x.[35]

Petitioners claim that Rodriguez is a buyer in bad faith since prior to his purchase he was aware of the MIAA's occupation of the property and therefore proceeded with the purchase in anticipation of enormous profits from the subsequent sale to the MIAA. The point is irrelevant. Regardless of whether or not Rodriguez acted in bad faith, all that he will be entitled to is the value of the property at the time of the taking, with legal interest thereon from that point until full payment of the compensation by the MIAA. Besides, assuming the question is of any consequence, the circumstances surrounding Rodriguez's purchase may not even amount to bad faith. Bad faith has been defined as a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for an ulterior purpose, and implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity.[36] There is nothing wrongful or dishonest in expecting to profit from one's investment. However, Rodriguez can fault but only himself for taking an obvious risk in purchasing property already being used for a public purpose. It was a self-inflicted misfortune that his investment did not generate the windfall he had expected. For ostensibly little did he know that he could not acquire more rights than the previous owners had since the government taking had taken place earlier.

For more than twenty (20) years, the MIAA occupied the subject lot without the benefit of expropriation proceedings and without the MIAA exerting efforts to ascertain ownership of the lot and negotiating with any of the owners of the property. To our mind, these are wanton and irresponsible acts which should be suppressed and corrected. Hence, the award of exemplary damages and attorneys fees is in order. However, while Rodriguez is

entitled to such exemplary damages and attorney's fees, the award granted by the courts below should be equitably reduced. We hold that Rodriguez is entitled only to P200,000.00 as exemplary damages, and attorney's fees equivalent to one percent (1%) of the amount due.

The MIAA argues that it had already expropriated the subject lot back in the 1970s. However, the Court cannot pass upon this defense, it having been brought up for the first time. Points of law, theories, issues and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be, considered by a reviewing court as they cannot be raised for the first time on appeal.[37] Moreover, this new theory of previous expropriation is negated by the fact that petitioners negotiated with Rodriguez when the latter offered the subject property for sale to the MIAA, as evidenced by the correspondence between the parties.[38] If the MIAA already owned the property, there would be no more need to negotiate with Rodriguez; petitioners would have asserted such fact as soon as Rodriguez had offered to sell the property to them.

WHEREFORE, the petition is GRANTED IN PART. The Decision of the Court of Appeals is MODIFIED as follows:

- The MIAA is ordered to pay Joaquin Rodriguez just compensation for the subject lot, the portion actually occupied by the runway consisting of or based on the value thereof at the time of taking in 1972, with interest thereon at the legal rate of six percent (6%) per annum from the time of the taking until full payment is made. For the purpose of determining said value, the case is remanded to the lower court. Said court is ordered to make the determination with deliberate dispatch;
- The award of back rentals as damages is DELETED;
- The MIAA is ordered to PAY exemplary damages in the reduced amount of P200,000.00, and attorney's fees equivalent to one percent (1%) of the amount due.

No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairman), Carpio and Carpio-Morales, JJ., concur.

[1] Rollo, p. 104.

[2] Deed of Absolute Sale, id. at 89-91.

[3] After the purchase, TCT No. 109416 of the Registry of Deeds of Parañaque was issued to Rodriguez; id. at 87-88.

[4] Id. at 92.

[5] Id. at 82-86. The case was raffled to Branch 2, Regional Trial Court of Parañaque City.

[6] Page 5 of the RTC Decision; id. at 111.

[7] Appellant's Brief, CA records, p. 64.

[8] Rollo, p. 39.

[9] Id. at 112-116, 117-123.

[10] Id. at 44.

[11] Id. at 22.

[12] Id. at 25.

[13]Id. at 17-20.

[14] Id. at 21.

[15]Id. at 22-24.

[16] Id. at 26-27.

[17] Id. at 28-29.

[18]CONSTITUTION, Art. III, Sec. 9.

[19] Ansaldo v. Tantuico, Jr., G.R. No. 50147, 3 August 1990, 188 SCRA 300, 304, citing Municipality of La Carlota v. NAWASA, 12 SCRA 164.

[20] No. L-36706, 31 March 1980, 96 SCRA 831.

[21]Id. 838, citing Republic v. Philippine National Bank, 1 SCRA 957.

[22]Supra note 19.

[23]Id. at 303.

[24]Id. at 304-305.

[25]G.R. No. 146062, 28 June 2001, 360 SCRA 230.

[26] Id. at 239-240.

[27] Rollo, p. 108.

[28]CIVIL CODE, Art. 2199.

[29] In Urtula v. Republic, No. L-22061, 31 January 1968, 22 SCRA 477,481, the rate of six percent (6%) interest on the amount of just compensation was deemed a "known factor."

[30]Amigable v. Cuenca, No.L-26400, 29 February 1972, 43 SCRA 360, 365; Republic v. Lara, 96 Phil. 170 (1954) .

[31] Urtula v. Republic, supra note 29, at 480, citing 30 C.J.S. 230.

[32]96 Phil. 170 (1954).

[33]Id. at 184-185.

[34] 103 Phil. 231 (1958), also cited in Valderhueza, et al. v. Republic, No. L-21032, 19 May 1966, 17 SCRA 107, 113.

[35] Id. at 237.

[36]The Philippine American Life and General Insurance Co. v. Gramaje, G.R. No. 156963, 11 November 2004, 442 SCRA 274, 285.

[37]Tan Chun Suy v. Court of Appeals, G.R. No. 93640, 7 January 1994, 229 SCRA 151, 165.

[38] Rollo, pp. 92-95.

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