

**HON. VICENTE P. EUSEBIO, LORNA A. BERNARDO, VICTOR ENDRIGA,
AND THE CITY OF PASIG, PETITIONERS, VS. JOVITO M. LUIS,
LIDINILA LUIS SANTOS, ANGELITA CAGALINGAN, ROMEO M. LUIS,
AND...**

G.R. No. 162474. October 13, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA) dated November 28, 2003, affirming the trial court judgment, and the CA Resolution[2] dated February 27, 2004, denying petitioners' motion for reconsideration, be reversed and set aside.

The antecedent facts are as follows:

Respondents are the registered owners of a parcel of land covered by Transfer Certificate of Title Nos. 53591 and 53589 with an area of 1,586 square meters. Said parcel of land was taken by the City of Pasig sometime in 1980 and used as a municipal road now known as A. Sandoval Avenue, Barangay Palatiw, Pasig City. On February 1, 1993, the Sanggunian of Pasig City passed Resolution No. 15 authorizing payments to respondents for said parcel of land. However, the Appraisal Committee of the City of Pasig, in Resolution No. 93-13 dated October 19, 1993, assessed the value of the land only at P150.00 per square meter. In a letter dated June 26, 1995, respondents requested the Appraisal Committee to consider P2,000.00 per square meter as the value of their land.

One of the respondents also wrote a letter dated November 25, 1994 to Mayor Vicente P. Eusebio calling the latter's attention to the fact that a property in the same area, as the land subject of this case, had been paid for by petitioners at the price of P2,000.00 per square meter when said property was expropriated in the year 1994 also for conversion into a public road. Subsequently, respondents' counsel sent a demand letter dated August 26, 1996 to Mayor Eusebio, demanding the amount of P5,000.00 per square meter, or a total of P7,930,000.00, as just compensation for respondents' property. In response, Mayor Eusebio wrote a letter dated September 9, 1996 informing respondents that the City of Pasig cannot pay them more than the amount set by the Appraisal Committee.

Thus, on October 8, 1996, respondents filed a Complaint for Reconveyance and/or Damages (Civil Case No. 65937) against herein petitioners before the Regional Trial Court (RTC) of Pasig City, Branch 155. Respondents prayed that the property be returned to them with payment of reasonable rental for sixteen years of use at P500.00 per square meter, or P793,000.00, with legal interest of 12% per annum from date of filing of the complaint until full payment, or in the event that said property can no longer be returned, that petitioners be ordered to pay just compensation in the amount of P7,930,000.00 and rental for sixteen years of use at P500.00 per square meter, or P793,000.00, both with legal interest of 12% per annum from the date of filing of the complaint until full payment. In addition, respondents prayed for payment of moral and exemplary damages, attorney's fees and costs.

After trial, the RTC rendered a Decision[3] dated January 2, 2001, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

- Declaring as ILLEGAL and UNJUST the action of the defendants in taking the properties of plaintiffs covered by Transfer Certificates of Title Nos. 53591 and 53589 without their consent and without the benefit of an expropriation proceedings required by law in the taking of private property for public use;
- Ordering the defendants to jointly RETURN the subject properties to plaintiffs with payment of reasonable rental for its use in the amount of P793,000.00 with legal interest at the rate of 6% per annum from the filing of the instant Complaint until full payment is made;
- In the event that said properties can no longer be returned to the plaintiffs as the same is already being used as a public road known as A. Sandoval Avenue, Pasig City, the defendants are hereby ordered to jointly pay the plaintiffs the fair and reasonable value therefore at P5,000.00 per square meter or a total of P7,930,000.00 with payment of reasonable rental for its use in the amount of P500.00 per square meter or a total of P793,000.00, both with legal interest at the rate of 6% per annum from the filing of the instant Complaint until full payment is made; and
- Ordering the defendants to jointly pay the plaintiffs attorney's fees in the amount of P200,000.00.

No pronouncement as to costs.

SO ORDERED.

Petitioners then appealed the case to the CA, but the CA affirmed the RTC judgment in its Decision dated November 28, 2003.

Petitioners' motion for reconsideration of the CA Decision was denied per Resolution dated February 27, 2004.

Hence, this petition where it is alleged that:

- PUBLIC RESPONDENT COURT ERRED IN UPHOLDING THE RULING OF THE LOWER COURT DESPITE THE APPARENT LACK OF JURISDICTION BY REASON OF PRESCRIPTION OF PRIVATE RESPONDENTS' CLAIM FOR JUST COMPENSATION;
- PUBLIC RESPONDENT COURT ERRED IN FIXING THE FAIR AND REASONABLE COMPENSATION FOR RESPONDENTS' PROPERTY AT P5,000.00 PER SQUARE METER DESPITE THE GLARING FACT THAT AT THE TIME OF TAKING IN THE YEAR 1980 THE FAIR MARKET VALUE WAS PEGGED BY AN APPRAISAL COMMITTEE AT ONE HUNDRED SIXTY PESOS (PHP160.00);
- PUBLIC RESPONDENT COURT ERRED IN UPHOLDING THE JUDGMENT OF THE LOWER COURT AWARDING THE AMOUNT OF P793,000.00 AS REASONABLE RENTAL FOR THE USE OF RESPONDENTS' PROPERTY IN SPITE OF THE FACT THAT THE SAME WAS CONVERTED INTO A PUBLIC ROAD BY A PREVIOUSLY ELECTED MUNICIPAL MAYOR WITHOUT RESPONDENTS' REGISTERING ANY COMPLAINT OR PROTEST FOR THE TAKING AND DESPITE THE FACT THAT SUCH TAKING DID NOT PERSONALLY BENEFIT THE PETITIONERS BUT THE PUBLIC AT LARGE; AND
- PUBLIC RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE P200,000.00 AWARD FOR ATTORNEY'S FEES TO THE PRIVATE RESPONDENTS' COUNSEL DESPITE THE ABSENCE OF NEGLIGENCE OR INACTION ON THE PART OF PETITIONERS RELATIVE TO THE INSTANT

CLAIM FOR JUST COMPENSATION.[4]

At the outset, petitioners must be disabused of their belief that respondents' action for recovery of their property, which had been taken for public use, or to claim just compensation therefor is already barred by prescription. In *Republic of the Philippines v. Court of Appeals*,^[5] the Court emphasized "that where private property is taken by the Government for public use without first acquiring title thereto either through expropriation or negotiated sale, the owner's action to recover the land or the value thereof does not prescribe." The Court went on to remind government agencies not to exercise the power of eminent domain with wanton disregard for property rights as Section 9, Article III of the Constitution provides that "private property shall not be taken for public use without just compensation." [6]

The remaining issues here are whether respondents are entitled to regain possession of their property taken by the city government in the 1980's and, in the event that said property can no longer be returned, how should just compensation to respondents be determined.

These issues had been squarely addressed in *Forfom Development Corporation v. Philippine National Railways*,^[7] which is closely analogous to the present case. In said earlier case, the Philippine National Railways (PNR) took possession of the private property in 1972 without going through expropriation proceedings. The San Pedro-Carmona Commuter Line Project was then implemented with the installation of railroad facilities on several parcels of land, including that of petitioner Forfom. Said owner of the private property then negotiated with PNR as to the amount of just compensation. No agreement having been reached, Forfom filed a complaint for Recovery of Possession of Real Property and/or Damages with the trial court sometime in August 1990.

In said case, the Court held that because the landowner did not act to question the lack of expropriation proceedings for a very long period of time and even negotiated with the PNR as to how much it should be paid as just compensation, said landowner is deemed to have waived its right and is estopped from questioning the power of the PNR to expropriate or the public use for which the power was exercised. It was further declared therein that:

x x x recovery of possession of the property by the landowner can no longer be allowed on the grounds of estoppel and, more importantly, of public policy which imposes upon the public utility the obligation to continue its services to the public. The non-filing of the case for expropriation will not necessarily lead to the return of the property to the landowner. What is left to the landowner is the right of compensation.

x x x It is settled that non-payment of just compensation does not entitle the private landowners to recover possession of their expropriated lot.^[8]

Just like in the *Forfom* case, herein respondents also failed to question the taking of their property for a long period of time (from 1980 until the early 1990's) and, when asked during trial what action they took after their property was taken, witness Jovito Luis, one of the respondents, testified that "when we have an occasion to talk to Mayor Caruncho we always asked for compensation."^[9] It is likewise undisputed that what was constructed by the city government on respondents' property was a road for public use, namely, A. Sandoval Avenue in Pasig City. Clearly, as in *Forfom*, herein respondents are also estopped from recovering possession of their land, but are entitled to just compensation.

Now, with regard to the trial court's determination of the amount of just compensation to which respondents are entitled, the Court must strike down the same for being contrary to established rules and jurisprudence.

The prevailing doctrine on judicial determination of just compensation is that set forth in *Forfom*.^[10] Therein, the Court ruled that even if there are no expropriation proceedings instituted to determine just compensation, the trial

court is still mandated to act in accordance with the procedure provided for in Section 5, Rule 67 of the 1997 Rules of Civil Procedure, requiring the appointment of not more than three competent and disinterested commissioners to ascertain and report to the court the just compensation for the subject property. The Court reiterated its ruling in *National Power Corporation v. Dela Cruz*[11] that "trial with the aid of commissioners is a substantial right that may not be done away with capriciously or for no reason at all." [12] It was also emphasized therein that although ascertainment of just compensation is a judicial prerogative, the commissioners' findings may only be disregarded or substituted with the trial court's own estimation of the property's value only if 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, the Court concluded in *Forom* that:

The judge should not have made a determination of just compensation without first having appointed the required commissioners who would initially ascertain and report the just compensation for the property involved. This being the case, we find the valuation made by the trial court to be ineffectual, not having been made in accordance with the procedure provided for by the rules.[13]

Verily, the determination of just compensation for property taken for public use must be done not only for the protection of the landowners' interest but also for the good of the public. In *Republic v. Court of Appeals*, [14] the Court explained as follows:

The concept of just compensation, however, does not imply fairness to the property owner alone. Compensation must be just not only to the property owner, but also to the public which ultimately bears the cost of expropriation.[15]

It is quite clear that the Court, in formulating and promulgating the procedure provided for in Sections 5 and 6, Rule 67, found this to be the fairest way of arriving at the just compensation to be paid for private property taken for public use.

With regard to the time as to when just compensation should be fixed, it is settled jurisprudence that where property was taken without the benefit of expropriation proceedings, and its owner files an action for recovery of possession thereof before the commencement of expropriation proceedings, it is the value of the property at the time of taking that is controlling.[16] Explaining the reason for this rule in *Manila International Airport Authority v. Rodriguez*, [17] the Court, quoting *Ansaldo v. Tantuico, Jr.*, [18] stated, thus:

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 enchanced 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.' [19]

In this case, the trial court should have fixed just compensation for the property at its value as of the time of taking in 1980, but there is nothing on record showing the value of the property at that time. The trial court, therefore, clearly erred when it based its valuation for the subject land on the price paid for properties in the same location, taken by the city government only sometime in the year 1994.

However, in taking respondents' property without the benefit of expropriation proceedings and without payment

of just compensation, the City of Pasig clearly acted in utter disregard of respondents' proprietary rights. Such conduct cannot be countenanced by the Court. For said illegal taking, the City of Pasig should definitely be held liable for damages to respondents. Again, in *Manila International Airport Authority v. Rodriguez*,^[20] the Court held that the government agency's illegal occupation of the owner's property for a very long period of time surely resulted in pecuniary loss to the owner. The Court held as follows:

Such pecuniary loss entitles him to adequate compensation in the form of actual or compensatory damages, which in this case should be the legal interest (6%) on the value of the land at the time of taking, from said point up to full payment by the MIAA. 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."

The award of interest renders unwarranted the grant of back rentals as extended by the courts below. In *Republic v. Lara, et al.*, 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. More explicitly, the Court held in *Republic v. Garcellano* 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.

x x x x

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.^[21]

Lastly, with regard to the liability of petitioners Vicente P. Eusebio, Lorna A. Bernardo, and Victor Endriga, all officials of the city government, the Court cannot uphold the ruling that said petitioners are jointly liable in their personal capacity with the City of Pasig for payments to be made to respondents. There is a dearth of evidence which would show that said petitioners were already city government officials in 1980 or that they had any involvement whatsoever in the illegal taking of respondents' property. Thus, any liability to respondents is the sole responsibility of the City of Pasig.

IN VIEW OF THE FOREGOING, the petition is PARTIALLY GRANTED. The Decision of the Court of Appeals dated November 28, 2003 is MODIFIED to read as follows:

- The valuation of just compensation and award of back rentals made by the Regional Trial Court of Pasig City, Branch 155 in Civil Case No. 65937 are hereby SET ASIDE. The City of Pasig, represented by its duly-authorized officials, is DIRECTED to institute the appropriate expropriation action over the subject parcel of land within fifteen (15) days from finality of this Decision, for the proper determination of just compensation due to respondents, with interest at the legal rate of six (6%) percent per annum from the time of taking until full payment is made.

- The City of Pasig is ORDERED to pay respondents the amounts of P200,000.00 as exemplary damages and

P200,000.00 as attorney's fees.

No costs.

SO ORDERED.

Carpio, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ.,

[*] The Court of Appeals is dropped as one of the respondents in accordance with Section 4, Rule 45 of the Rules of Court, which states that the petition shall not implead the lower courts or judges thereof either as petitioners or respondents.

[1] Penned by Associate Justice Renato C. Dacudao, with Associate Justices Cancio C. Garcia (now retired SC Associate Justice) and Danilo B. Pine, concurring; rollo, pp. 44-56.

[2] Id. at 58-59.

[3] Rollo, pp. 41-42.

[4] Id. at 18-19.

[5] G.R. No. 147245, March 31, 2005, 454 SCRA 516.

[6] Id. at 528.

[7] G.R. No. 124795, December 10, 2008.

[8] Emphasis ours.

[9] TSN, September 15, 1998; records, p. 110.

[10] Supra. See note 7.

[11] G.R. No. 156093, February 2, 2007, 514 SCRA 56.

[12] Id. at 70.

[13] Supra note 7. (Emphasis and underscoring ours.)

[14] Supra note 5.

[15] Id. at 536. (Emphasis ours.)

[16] Forfom v. Philippine National Railways, supra note 7; Manila International Airport Authority v. Rodriguez, G.R. No. 161836, February 28, 2006, 483 SCRA 619, 627; Republic v. Court of Appeals, supra note 5, at 534-535.

[17] Supra, at 628.

[18] G.R. No. 50147, August 3, 1990, 188 SCRA 300.

[19] Id. at 628-629.

[20] Supra note 16.

[21] Id. at 630-632. (Emphasis and underscoring supplied.)

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