

NATIONAL POWER CORPORATION, PETITIONER, VS. MARIA BAGUI, VEDASTO BAGUI, FELICIANA BAGUI, EPIFANIA BAGUI, HEIRS OF MARGARITO MACARAIG AND WIFE, REPRESENTED BY DOLORES MACARAIG, N...

G.R. No. 164964. October 17, 2008

Ponente: TINGA, J.

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TINGA, J.:

Subject of this Petition for Review[1] is the Decision[2] dated 16 August 2004 of the Court of Appeals in CA-G.R. CV No. 72399, which affirmed in toto the 30 May 2001 Decision[3] of the Regional Trial Court(RTC) of Batangas City, Branch 84 in the expropriation case filed by the National Power Corporation (NPC).

Petitioner NPC is a government-owned and controlled corporation created and existing by virtue of Republic Act (R.A.) No. 6395 for the purpose of undertaking the development of hydroelectric generation of power and production of electricity from any and all sources.[4] Respondents are the owners of parcels of land situated in the province of Batangas, particularly described below, to wit:

LOT/BLOCK NO. LOCATION OF PROPERTY TOTAL AREA (in sq.m.) AREA AFFECTED (in sq.m)

Maria, Vedasto, Feliciano and Epifania Bagui (Baguis), 4413-G-1 pt. Mahabang Parang 427[5] 427

Heirs of Margarito Macaraig and wife, represented by Dolores Macaraig (Macaraig), 2110 Banaba San Pascual 8,098[6] 680

Nieves Valdez (Valdez) 2263 pt. (Lot 061) Banaba San Pascual 450[7] 256.75

Jaime Marquez (Marquez) Lot 1-B-9-B Banaba San Pascual 336[8] 336

Culled from the records are the following established facts:

On 10 March 2000, NPC filed a complaint for eminent domain against respondents before the RTC.[9] NPC sought to acquire an easement of right-of-way over portions of the subject lots, including the properties of Adriana Belegal (Belegal), Spouses Ernesto and Necitas Bool (Spouses Bool) and Spouses Geronimo and Teresita David (Spouses David).[10]

The total area sought to be expropriated by NPC for the purpose of constructing and maintaining its San Pascual Cogeneration Associated Transmission Line Project covered 9,528 square meters. NPC expressed willingness to deposit the total amount of P33,645.31 representing the assessed values for taxation purposes of the affected portions of the subject lots.[11]

Belegal and Spouses David filed their answer[12] wherein they contended that the amount needed to be deposited before it could take or enter their properties should be at least fifteen percent (15%) of the fair market value of the properties based on the current tax declarations.[13] Spouses Bool and respondents Baguis, whose properties were

substantially affected by the easement of right-of-way, were represented by the Public Attorney's Office. They sought payment of just compensation equivalent to the full market value of the properties sought to be expropriated in their entirety.[14]

Upon deposit of the amount representing the provisional value of the subject properties and service upon respondents of the Notice to Take Possession,[15] NPC filed an urgent ex-parte motion for the issuance of a writ of possession.[16] Respondents filed their opposition.[17] In an Order dated 18 August 2000,[18] the trial court directed both parties to submit the valuation of the improvements on their properties, and specifically NPC alone to make a valuation of the existing house of the Baguis.

Subsequently, in the order[19] dated 1 September 2000, the trial court appointed a set of three commissioners to determine the fair market value of the lands of Belegal, Spouses Bool, Spouses David and respondents Baguis, and a second set of three commissioners to ascertain the fair market value of the lands[20] of respondents Macaraig, Valdez and Marquez.[21]

The first set of commissioners submitted its initial Report[22] recommending the amounts of P1,162.00, P938.78, and P1,654.40 per square meter for the properties of Belegal, Spouses David and respondents Baguis,[23] respectively. The Report was rectified[24] and a new valuation was made only for the properties of Belegal and Spouses David at P1,134.22 per square meter and P1,000.65 per square meter, respectively. The valuation for respondents Baguis remained the same.[25] The second set of commissioners submitted its Appraisal Report setting the fair market value of the lands of respondents Macaraig, Marquez and Valdez at P250.00, P350.00 and P3,000.00 per square meter, respectively.

In accordance with the trial court's orders[26] directing the issuance of writs of possession for the subject properties, on 19 December 2000, the clerk of court issued a writ of possession in favor of NPC.[27]

Finding the appraisal valuations of the two sets of commissioners as reasonable and fair, the trial court, in its Decision dated 30 May 2001, ordered NPC to pay compensation to respondents at the stated fair market values per square meter of their respective lots.[28]

NPC appealed the decision of the trial court to the Court of Appeals.[29]

During the pendency of the appeal, partial compromise agreements were entered into by NPC and respondents Belegal, Spouses David and Spouses Bool.[30] The appellate court admitted these agreements, thus making the judgment final and executory between them.[31] Respondent Marquez also entered into an amicable settlement with NPC.[32]

On 16 August 2004, the appellate court promulgated its decision affirming the trial court's judgment in favor of respondents Baguis, Macaraig, Valdez and Marquez against NPC.[33] The decision is now before this Court.

Through the Office of the Solicitor General,[34] NPC makes a three-pronged challenge to the valuations submitted by the commissioners in determining the amount of just compensation. First, it argues that the computation of just compensation should have been based on Section 3-A(b) of R.A. No. 6395, as amended by Presidential Decree No. 938,[35] the governing law on eminent domain complaints for easement of right-of-way. Second, it impugns the rectified report of the first set of commissioners in giving weight to "Opinion Value." Third, it avers that the appraisal report of the second set of commissioners relied on hearsay evidence, consisting of the opinion of the barangay chairman and the estimate of the provincial assessor.

In sum, the NPC faults the appellate court in upholding the trial court's decision, which, according to it, is based on speculative and baseless recommendations of the commissioners.[36]

In their comment,[37] respondents counter that Section 3-A(b) of R.A. No. 6395, as amended, does not apply. They contend that the use of the lands to be expropriated is not limited to "easement of right-of-way" purposes, stressing that the nature and effect of the construction and maintenance of the San Pascual Cogeneration Associated Transmission Line Project have effectively deprived them of the ordinary use of their lands. On that basis, they justify the recommended valuation of the property, which also took into account the nature and consequential damages incurred by the affected properties.[38]

The instant petition essentially brings forth two issues, one of law and the other of fact. The legal issue is whether NPC should be made to pay just compensation in terms of the full market value of the properties traversed by the transmission lines. This matter has long been decided by this Court in a plethora of cases and must now be laid to rest.

In *National Power Corporation v. Manubay Agro-Industrial Development Corporation*[39] involving an easement of a right-of-way over a parcel of land that would be traversed by high-powered transmission lines, the Court held that the nature and effect of the installation of power lines and the limitations on the use of the land for an indefinite period would deprive the owners of the normal use of their properties. Thus, just compensation must be based on the full market value of the affected properties.[40] This ruling was reiterated in *NPC v. Bongbong*[41] which also pertained to the acquisition of a simple right-of-way easement for the passage of overhead transmission lines.

In the case of *NPC v. Purefoods*,[42] NPC had to acquire an easement of right-of-way over certain parcels of land in Bulacan for the construction and maintenance of the San Jose-San Manuel 500 KV Transmission Line Project. The Court, invoking *National Power Corporation v. Aguirre-Paderanga*,[43] also sustained the affected property owner's right to recover consequential damages in addition to the market value, in cases where only a part of a certain property is expropriated.[44]

Moreover, Section 3A-(b) of R.A. No. 6395, as amended, is not binding on the Court. It has been repeatedly emphasized that the determination of just compensation in eminent domain cases is a judicial function[45] and that any valuation for just compensation laid down in the statutes may serve only as a guiding principle or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount.[46]

On the other hand, the factual issue is whether the determinations of just compensation made by the trial court, as affirmed by the Court of Appeals, are correct.

As a general rule, the Court will not disturb the factual findings of the trial and appellate courts unless they are grounded entirely on speculations, surmises or conjectures,[47] among others.[48] The aforecited exception partly obtains in this case.

Challenged by the NPC are the reports submitted by two separate sets of commissioners. The first set of commissioners' report deals with the property of the Baguis while the second set of commissioners' report covers the properties of respondents Macaraig and Valdez.

The trial court found the appraisal valuations reasonable and fair. The appellate court saw no basis to disturb these valuations, thus:

As can be gleaned from the Records, the lower court and the groups of Commissioners did not abuse their authority in evaluating the evidence submitted to them nor misappreciate the clear preponderance of evidence. The amount fixed by the court a quo is not grossly exorbitant. Be it reminded that the Commissioners are considered as experts, with general knowledge of the appraisal of land and the prevailing prices of land in the

vicinity of the land in question so that their opinion on the valuation of the property cannot be lightly brushed aside. The prevailing market value of the land in the present case were clearly shown, hence, We find no ground to depart from the lower court's findings. (citations omitted)[49]

Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. In this case, this simply means the property's fair market value at the time of the filing of the complaint, or that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as price to be given and received therefor. The measure is the not the taker's gain, but the owner's loss.[50]

While market value may be one of the bases of determining just compensation, the same cannot be arbitrarily arrived at without considering the factors to be appreciated in arriving at the fair market value of the property, e.g., the cost of acquisition, the current value of like properties, its size, shape, location, as well as the tax declarations thereon.[51]

The first set of commissioners' report covering the property of respondent Baguis has a recommended valuation of P1,654.40 per square meter. NPC questions the factors considered by the commissioners in arriving at their valuation. It assails the employment of opinions which were not supported by actual sales transactions. Moreover, it also disputes the usage of the CALABARZON value in that none of the affected lots lie along the stretch of the CALABARZON road.

Incidentally, the opinion and CALABARZON values were relatively high[52]. However, these were only two of the many factors that were looked into by the commissioners in their valuation. They also considered the average sales data, zonal valuation, and loan value in coming up with a reasonable estimate of just compensation. The valuation was arrived at after carefully weighing in all these factors and should thus be upheld.

A different valuation treatment was accorded by the second set of commissioners to the properties of respondents Macaraig and Valdez. As argued by the NPC, the condition of the properties was not considered, instead the commissioners relied solely on the assessment made by the Provincial Appraisal Committee in Resolution No. 03-99 involving a property similarly situated.[53]

Section 4, Rule 67 of the 1997 Rules of Civil Procedure provides that just compensation is to be determined as of the date of the taking or the filing of the complaint whichever came first. In this case, the complaint for expropriation was filed on 10 March 2000 while the trial court issued a writ of possession on 19 December 2000. Resolution No. 03-99 setting the fair market value of the property in Banaba, San Pascual, Batangas at P250.00 per square meter was issued on 2 March 1999. Clearly, the market value could no longer be accurate as prices might have been distorted after a year. Furthermore, the commissioners did not bother to explain the similarities in the nature, character or condition between the properties of respondents and the properties subject of the resolution.

Worse, the commissioners' valuation of the Valdez' property was based only on an information that a similar lot in the same subdivision was sold at P350.00. The source of that information was not stated. Being unsubstantiated, the valuation cannot support the compensation award.

WHEREFORE, the petition is PARTLY GRANTED. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 72399 is AFFIRMED insofar as it refers to the properties of the Baguis. This case is REMANDED to the trial court for the proper determination of the amount of just compensation with respect to the properties of respondents Macaraig and Valdez. No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 9-28.

[2]Id. at 30-35; penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Perlita Tria Tirona and Noel G. Tijam.

[3]Id. at 36-38.

[4] Records, p. 1.

[5]Id. at 10.

[6] Id. at 11.

[7]Id. at 12.

[8] Id. at 13.

[9]Id. at 1-6.

[10]

LOT/BLOCK NO. LOCATION OF PROPERTY TOTAL AREA (in sq. m.) AREA AFFECTED (in sq. m)

Adriana Belegal 3294 Banaba, Silangan Batangas City 10,567[7] 4,733

Sps. Ernesto and Necitas Bool 3293 pt. Banaba, Silangan Batangas City 800[7] 702

Geronimo and Teresita David 3158 pt. (Lot 043) 3158 pt. (Lot 044) Banaba Center Batangas City 1,545[7] 1,544[7] 1389.50 1003.75

[11] Id. at 3-4.

[12] Id. at 71-74.

[13] Id. at 72.

[14] Id. at 66-67, 76-77.

[15] Id. at 78-79.

[16] Id. at 90-92.

[17] Id. at 118-122.

[18]Id. at 138.

[19]Id. at 146-147.

[20] All lands are located in Banaba, San Pascual.

[21]Id. at 146. In the same order, the trial court also set the fair market value of the improvements of the Baguis at P135,000.00 for Maria, while that of Feliciano, who is a co-owner of the lot but has a house of her own situated therein, at P230,000.00.

[22]Id. at 175-179.

[23] Id. at 178.

[24]Id. at 208-212.

[25] Id. at 211.

[26]Id. at 240-241.

[27]Id. at 254-255.

[28]Id. at 355-356.

[29] Id. at 359.

[30] CA rollo, pp. 161-177. Under the partial compromise agreement, the parties agreed that NPC shall pay the following amounts to some of the respondents:

Belegal 567.11 per square meter P2,592,826.92

Bool 567.11 per square meter P 300,568.30

David 410.00 per square meter P 483,190.00

[31] Id. at 179-185.

[32] Rollo, p. 67.

[33]Id. at 34.

[34] Id. at 41-79.

[35]SEC. 3A. In acquiring private property or private property rights through expropriation proceedings where the land or portion thereof will be traversed by the transmission lines, only a right-of-way easement thereon shall be acquired when the principal purpose for which such land is actually devoted will not be impaired, and where the land itself or portion thereof will be needed for the projects or works, such land or portion thereof as necessary shall be acquired.

In determining the just compensation of the property or property sought to be acquired through expropriation proceedings, the same shall -

x x x

(b) With respect to the acquired right-of-way easement over the land or portion thereof, not to exceed ten percent (10%) of the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor whichever is lower.

[36] Rollo, pp. 16-24.

[37]Id. at 147. Due to the failure of respondents Baguis, et al. to file a comment on the petition despite repeated warnings, they were deemed to have waived the filing of comment.

[38]Id. at 116-120.

[39] G.R. No. 150936, 18 August 2004, 437 SCRA 60.

[40] Id. at 69.

[41] G.R. No. 164079, 3 April 2007, 520 SCRA 290.

[42] G.R. No. 160725, 12 September 2008.

[43] G.R. No. 155065, 28 July 2005, 464 SCRA 481.

[44] Supra note 42.

[45] Land Bank of the Philippines v. Celada, G.R. No. 164876, 23 January 2006, 479 SCRA 495, 505.

[46] Export Processing Zone Authority v. Dulay, G.R. No. L-59603, 29 April 1987, 149 SCRA 305, 312.

[47] Tigoy v. Court of Appeals, G.R. No. 144640, 26 June 2006, 494 SCRA 539, 549.

[48] "Factual findings of the trial court, when adopted and confirmed by the Court of Appeals are final and conclusive, and may not be reviewed on appeal except: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, (8) when the findings of fact are premised on the absence of evidence and are contradicted by the evidence on record." See *Almendrala v. Ngo*, G.R. No. 142408, 30 September 2005, 471 SCRA 311, 322.

[49] Rollo, p. 34.

[50] National Power Corporation v. Tiangco, G.R. No. 170846, 6 February 2007, 514 SCRA 674, 685.

[51] Land Bank of the Phi. v. Wycoco, 464 Phil. 83, 97 (2004).

[52] Opinion value was set at P1,500.00 per square meter while CALABARZON value was at P4,000.00 per square meter.

[53] The mayor of San Pascual made a request for said assessment for the purpose of purchasing a lot in the area to be used as a dumping site. Subsequently on 2 March 1999, the provincial assessors recommended a valuation of P250.00 per square meter.

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