

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. TERESITA PANLILIO LUCIANO, RESPONDENT.

G.R. No. 165428. November 25, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

For our resolution in the instant petition for review on certiorari filed by petitioner Land Bank of the Philippines are the Decision[1] dated August 3, 2004 and the Resolution[2] dated September 28, 2004 of the Court of Appeals in CA-G.R. CV No. 60263.[3]

The factual antecedents are as follows:

Respondent Teresita Panlilio Luciano is the registered owner of two parcels of agricultural lands covered by Transfer Certificate of Title (TCT) Nos. 223893 and 223894, with an area of 10.4995 hectares and 12.7526 hectares, respectively (subject lands), both situated in Barangay Amucao, Tarlac, Tarlac. On August 29, 1989, respondent voluntarily offered to sell the subject lands to the government under the Comprehensive Agrarian Reform Law, (CARL) or Republic Act (RA) No. 6657, as amended.[4]

On August 13, 1991, the Department of Agrarian Reform (DAR) sent Notices of Acquisition[5] to respondent as well as endorsed respondent's claim folders[6] to petitioner Land Bank for the determination of the value of the subject lands, pursuant to Land Bank's mandate under Executive Order (EO) No. 405. Petitioner Land Bank made a total valuation of P425,626.67 for the subject lands applying DAR Administrative Order (AO) No. 17, series of 1989, as amended, and the applicable provisions of RA No. 6657.[7]

Respondent rejected the valuation; thus, in accordance with Section 16 (d) of RA No. 6657, the Department of Agrarian Reform Adjudication Board (DARAB) undertook a summary administrative proceeding. During the pendency of the case, DAR AO No. 6, series of 1992, was promulgated. Consequently, the DARAB issued an Order directing petitioner Land Bank to revalue the subject lands applying the pertinent provisions of DAR AO No. 6, series of 1992. Petitioner Land Bank came up with P643,662.54 as the total value for the subject lands.[8]

Dissatisfied with the valuation, respondent, on January 23, 1995, filed with the Special Agrarian Court (SAC) of Tarlac, Tarlac, a petition[9] for eminent domain with prayer for a writ of preliminary mandatory injunction. She alleged that petitioner Land Bank erred in applying AO No. 6, series of 1992, in computing the just compensation for the subject lands, since such AO had been illegally issued by the Secretary of Agrarian Reforms because the AO repealed Section 56 of RA No. 3844 (The Agricultural Land Reform Code), in relation to Sections 17 and 75 of RA No. 6657. Respondent likewise prayed for the issuance of a writ of preliminary mandatory injunction, which would order petitioner Land Bank to deposit the preliminary compensation required under Section 16 (e) of RA No. 6657, as the possession and titles of the subject lands were already transferred to the DAR; and that she be authorized to withdraw the amount ordered deposited, pending determination of the just compensation; and she asked for damages.

DAR filed its Answer with Special and Affirmative Defenses[10] and argued that Land Bank's valuation of the subject lands bore the presumption of regularity, and that DAR could not be made to answer for damages in the performance of its public duties and responsibilities. DAR agreed to deposit the amount of P643,662.54, but objected to the withdrawal of the said amount until after the final determination of the just compensation.

In her Pre-Trial Brief[11] dated May 26, 1997, respondent admitted the areas acquired, as well as the average gross production per hectare, used by petitioner Land Bank in computing the just compensation, thus, limiting the issue to: "What capitalization rate should be used in determining just compensation? Will it be 6% as provided in RA No. 3844 before its amendment, or 20%, 16% or 12%, as successively provided in the different DAR administrative orders?"

On September 30, 1997, petitioner filed a Motion for Summary Judgment,[12] which was granted.

On January 6, 1998, the RTC rendered a Decision,[13] the dispositive portion of which reads:

WHEREFORE, the Court finds that the just compensation for the land covered by TCT No. 223893, with an area of 10.4995 hectares, is P825,050.71; and the land covered by TCT No. 223894, with an area of 12.7526 hectares, is P1,002,099.30 to be paid in accordance with the mode of payment under Section 18 of R.A. 6657.[14]

In arriving at its decision, the RTC made the following disquisitions, thus:

R.A. 6657 merely sets the criteria which [may be] used as bases in determining just compensation, such as the cost of acquisition, income, sworn statement of owners, assessments by government assessors. (Sec. 17, RA 6657). The petitioner (herein respondent) should have submitted evidence on these aspects, but also did not.

The petitioner filed a motion for summary judgment which is appropriate, considering that the answer filed by the DAR did not tender any genuine issue. Petitioner adopted, as exhibit, the Land Valuation Worksheet. The Court, based on this limited data appearing on the said valuation sheet, had to fix the just compensation. The average gross production is 78.58 canvas of palay per hectare.

The computed net income is fixed at 20%. The DAR, using the computed or capitalized net income divided by 16% [came] up with a value of P20,921.94 per hectare, pegging the selling price of palay at P4.26 per kilo. Thus, the total compensation, as per DAR's computation, is P192,191.98, using its formula.

By any stretch of the imagination, the Court cannot accept as just compensation the amount or value of the land per hectare at P20,921.94 fixed by respondents. Even raw lands or hilly lands which are offered for sale will command a higher price. That price is not even equivalent to the price of a square meter of a parcel of land in the center of Manila.

Again, petitioner rely on the provision of RA 3844, requiring the payment of five (5) times the gross average harvest as disturbance compensation to be paid to tenants ejected by a Court's decision. (Sec. 36 (1), RA 3844, as amended by RA 6389). This could not be applicable in the reverse, i.e., if the land will be sold by the landowner. The only reason the landowner is required to pay five (5) times the gross average harvest as disturbance compensation is to discourage the ejectment of tenants.

This Court is of the opinion that P.D. No. 27 may still be applied in this case, even in a suppletory character. (Sections 75 and 76, RA 6657). The formula specified therein is simple and just as it is based on the average gross production for the three cropping seasons/years prior thereto. It is also in consonance with justice that the selling price of palay should be the current price of P8.00 per kilo rather than the P35.00 per cavan.

The offer of the petitioner for the price of the land is P50,000.00 when the offer was made in 1991.

Thus, computed under P.D. No. 27, the value should be -

1. 78.58 x 400 x 2.5 x 10.4995 for the 10.4995 hectares;
2. 78.58 x 400 x 2.5 x 12.7526 for the 12.7526 hectares.[15]

Petitioner Land Bank filed a motion for reconsideration. The RTC then issued an Order which deferred the resolution on the motion for reconsideration and directed petitioner to submit the evidence it intended to present should the case be re-opened. Petitioner Land Bank complied and submitted the evidence required in the aforesaid Order.[16]

On March 4, 1998, the RTC issued a Resolution[17] denying petitioner Land Bank's motion for reconsideration.

Petitioner Land Bank filed an appeal with the CA.

On August 3, 2004, the CA issued its assailed Decision, the dispositive portion of which reads:

WHEREFORE, the Decision dated January 6, 1998 of the Special Agrarian Court of Tarlac, Tarlac, must be, as it hereby is, VACATED and SET ASIDE. Agrarian Case No. 152 is REMANDED to the Regional Trial Court of Tarlac, Tarlac, Branch 63, which is hereby directed to allow the parties to present evidence for the determination of just compensation.[18]

In so ruling, the CA averred (1) that the RTC, sitting as SAC, may suppletorily apply the formula embodied in PD No. 27 in computing the just compensation for lands pursuant to the voluntary scheme under RA No. 6657; (2) that the RTC had the discretion to choose which formula to apply in determining just compensation, having in view Section 17 of RA No. 6657; (3) that Land Bank determined only the initial valuation of lands covered by CARP, but it was the SAC that must ultimately decide; (4) that DAR Administrative Order No. 6, series of 1992 may only serve as a guide for the SAC in determining just compensation, but may not supplant or supersede the SAC's own judgment.

The CA found that the RTC erred in fixing at P8.00 a kilo, or P400.00 per cavan, the selling price of palay for the following reasons: (1) the selling price of palay should not be the current price, but the selling price at the time of the taking, which was on August 28, 1989; and (2) there was no evidence to show that indeed the amount used by the RTC was the current selling price of palay.

Petitioner Land Bank filed a Motion for Partial Reconsideration alleging that the remand of the case to the RTC for the determination of just compensation should not only be limited to the determination of the selling price of palay or the application of formula under PD No. 27, but it must be allowed to present evidence in accordance with the factors enumerated in Section 17 of RA No. 6657.

On September 28, 2004, the CA denied petitioner Land Bank's partial motion for reconsideration.

Hence, this petition wherein petitioner raises the lone assigned error.

THE HONORABLE COURT OF APPEALS ERRED IN LAW IN RULING THAT THE COURT A QUO MAY EMPLOY SUPPLETORILY THE FORMULA EMBODIED IN P.D. 27, BUT NOT THE PRESCRIBED PRICE OF PALAY UNDER E.O. 228, THUS LIMITING THE COMPUTATION OF THE JUST COMPENSATION TO THE APPLICABLE SELLING PRICE OF PALAY ONLY IN THE WOULD-BE PROCEEDINGS IN THE COURT A QUO.[19]

Petitioner contends that the subject lands were undisputedly acquired by the government through the DAR pursuant to RA No. 6657; thus, the determination of the just compensation must be based on several factors enumerated in Section 17 of RA No. 6657 and not PD No. 27 as found by the RTC and affirmed by the CA.

We agree.

In *Land Bank of the Philippines v. Banal*,^[20] the subject property was compulsorily acquired by the DAR pursuant to RA No. 6657. As the registered owners rejected Land Bank's valuation which applied the formula in DAR AO No. 6, series of 1992, as amended by DAR AO No. 11, series of 1994, a summary administrative proceeding was conducted before the Provincial Agrarian Reform Adjudicator (PARAD) to determine the valuation of the land. The PARAD affirmed the Land Bank's valuation. Dissatisfied, the registered owners filed a petition for the determination of just compensation with the RTC. On the same day after the pre-trial, the RTC issued an Order which dispensed with the hearing and directed the parties to submit their respective memoranda. The RTC rendered judgment, fixing the just compensation based on the facts established in another case pending before it using the formula prescribed under EO No. 228 and RA No. 3844. Land Bank filed an appeal with the CA, which affirmed the RTC decision. On Land Bank's petition for review filed with us, we found that the CA and the RTC erred in applying the formula prescribed under EO No. 228 and RA No. 3844 in determining the valuation of the subject land and ordered the remand of the case to the RTC for trial on the merits. The RTC was ordered to consider the factors provided under Section 17 of RA No. 6657 in determining the proper valuation of the subject property and the formula in DAR AO No. 6, series of 1992, as amended by DAR AO No. 11, series of 1994. In so ruling, we made the following disquisitions, to wit:

x x x In determining just compensation, the RTC is required to consider several factors enumerated in Section 17 of R.A. 6657, as amended, thus:

Sec. 17. Determination of Just Compensation. - In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

These factors have been translated into a basic formula in DAR Administrative Order No. 6, Series of 1992, as amended by DAR Administrative Order No. 11, Series of 1994, issued pursuant to the DAR's rule-making power to carry out the object and purposes of R.A. 6657, as amended.

The formula stated in DAR Administrative Order No. 6, as amended, is as follows:

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

LV = Land Value

CNI = Capitalized Net Income

CS = Comparable Sales

MV = Market Value per Tax Declaration

The above formula shall be used if all the three factors are present, relevant and applicable.

A.1 When the CS factor is not present and CNI and MV are applicable, the formula shall be:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

A.2 When the CNI factor is not present, and CS and MV are applicable, the formula shall be:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

A.3 When both the CS and CNI are not present and only MV is applicable, the formula shall be:

$$LV = MV \times 2$$

Here, the RTC failed to observe the basic rules of procedure and the fundamental requirements in determining just

compensation for the property. Firstly, it dispensed with the hearing and merely ordered the parties to submit their respective memoranda. Such action is grossly erroneous since the determination of just compensation involves the examination of the following factors specified in Section 17 of R.A. 6657, as amended:

- the cost of the acquisition of the land;
- the current value of like properties;
- its nature, actual use and income;
- the sworn valuation by the owner; the tax declarations;
- the assessment made by government assessors;
- the social and economic benefits contributed by the farmers and the farmworkers and by the government to the property; and
- the non-payment of taxes or loans secured from any government financing institution on the said land, if any.

Obviously, these factors involve factual matters which can be established only during a hearing wherein the contending parties present their respective evidence. In fact, to underscore the intricate nature of determining the valuation of the land, Section 58 of the same law even authorizes the Special Agrarian Courts to appoint commissioners for such purpose.[21]

The mandatory application of the above-mentioned guidelines in determining just compensation was reiterated in *Land Bank of the Philippines v. Lim*,[22] wherein we ordered the remand of the case to the RTC for the determination of just compensation strictly in accordance with DAR AO 6-92, as amended.[23]

In this case, respondent voluntarily offered to sell the subject lands to the DAR pursuant to RA No. 6657; thus, we find that the CA erred in ruling that the RTC correctly took recourse under PD No. 27 in determining the just compensation of the subject lands. The valuation factors under Section 17 of RA No. 6657 and the formula under DAR AO No. 6, series of 1992, as amended by DAR AO No. 11, series of 1994, should be applied since the subject lands were acquired under RA No. 6657[24] and not under PD No. 27.

In fact, we have repeatedly held that if the agrarian reform process under PD No. 27 is still incomplete, as the just compensation to be paid to the owners has yet to be settled; and considering the passage of RA No. 6657 before the completion of the process, the just compensation should be determined and the process concluded under the latter law.[25] Section 75 of RA No. 6657 provides that PD No. 27 and E.O. No. 228 have only suppletory effect.[26]

In *Land Bank v. Natividad*,[27] we held that it would certainly be inequitable to determine just compensation based on the guidelines provided by PD No. 27 and EO No. 228, considering the DAR's failure to determine the just compensation for a considerable length of time; and that it is especially imperative that just compensation should be determined in accordance with RA No. 6657, and not PD No. 27 and EO 228, considering that just compensation should be the full and fair equivalent of the property taken from its owner by the expropriator, the equivalent being real, substantial, full and ample.

Consequently, if the determination of just compensation of lands brought under the Operation Land Transfer of PD No. 27 was made under RA No. 6657, the RTC should have applied the provisions of RA No. 6657 to determine the just compensation of the subject lands, as they were voluntarily offered for sale under the said law.

Section 17 of RA No. 6657, which is specifically pertinent, enumerates the factors to be considered in the determination of just compensation, thus:

Sec. 17. Determination of Just Compensation. - In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property, as well as the non-payment of taxes or loans secured from any government financing institution on the said land, shall be considered as additional factors to determine its valuation.

and these factors have been translated into a basic formula by the DAR pursuant to its rule-making power under Section 49 of R.A. No. 6657. In this case, the basic formula applicable is DAR AO No. 6, series of 1992, the then governing regulation applicable to the lands that respondent voluntarily offered to sell under RA No. 6657. And the factors enumerated under Section 17 of RA No. 6657 as implemented through DAR AO No. 6, series of 1992, as amended, involve factual matters that can be established only during a hearing wherein the contending parties should present their respective evidence.[28]

Petitioner Land Bank claims that while the determination of just compensation involves judicial discretion, the RTC should take into serious consideration the facts and data gathered by the Land Bank as the administrative agency mandated by law to determine the valuation of the agricultural lands covered by land reform; and that it has the expertise to do the land valuation.

Under Section 1 of E.O. No. 405, series of 1990, the Land Bank of the Philippines is charged with the initial responsibility of determining the value of lands placed under land reform and the just compensation to be paid for their taking. Through a notice of voluntary offer to sell (VOS) submitted by the landowner, accompanied by the required documents, the DAR evaluates the application and determines the land's suitability for agriculture. The LBP likewise reviews the application and the supporting documents and determines the valuation of the land. Thereafter, the DAR issues the Notice of Land Valuation to the landowner. In both voluntary and compulsory acquisitions, wherein the landowner rejects the offer, the DAR opens an account in the name of the landowner and conducts a summary administrative proceeding. If the landowner disagrees with the valuation, the matter may be brought to the RTC, acting as a special agrarian court. This, in essence, is the procedure for the determination of just compensation.[29]

Clearly, Land Bank's valuation of lands covered by CARL is considered only as an initial determination, which is not conclusive, as it is the RTC, sitting as a Special Agrarian Court, that should make the final determination of just compensation, taking into consideration the factors enumerated in Section 17 of RA No. 6657 and the applicable DAR regulations. Land Bank's valuation had to be substantiated during the hearing before it could be considered sufficient in accordance with Section 17 of RA No. 6657 and DAR AO No. 6, series of 1992, as amended by DAR AO No. 11, series of 1994.

Thus, the remand of the case to the appropriate court below is necessary for the parties to present their evidence, as we are not a trier of facts. Considering, however, that respondent was already 96 years old when she filed her Comment in 2006 on the instant petition for review, and that the subject lands were acquired in 1991, we find these special circumstances justifying the acceleration of the final disposition of this case, and deem it best to pro hac vice commission the Court of Appeals as its agent to receive and evaluate the evidence of the parties.[30] Its mandate is to ascertain the just compensation due in accordance with this Decision, applying Section 17 of R.A. No. 6657 and DAR AO No. 6, series of 1992, as amended.

In *Land Bank of the Philippines v. Gallego*,[31] we held that the remand of cases before us to the Court of Appeals for the reception of further evidence is not a novel procedure. It is sanctioned by the Rules of Court, as we have availed ourselves of the procedure in quite a few cases.

WHEREFORE, the Decision of the Court of Appeals dated August 3, 2004 in CA-G.R. CV No. 60263 is REVERSED and SET ASIDE. Agrarian Case No. 152 is REMANDED to the Court of Appeals, which is directed to receive evidence and determine with dispatch the just compensation due respondent in accordance with Section 17 of RA No. 6657 and DAR AO No. 6, series of 1992, as amended by DAR AO No. 11, series of 1994.

SO ORDERED.

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

[1] Penned by Associate Justice Renato C. Dacudao, with Associate Justices Lucas P. Bersamin (now a member of this Court) and Celia C. Librea-Leagogo; rollo, pp. 53-63.

[2] Id. at 65.

[3] Entitled "Teresita Panlilio-Luciano, petitioner-appellee v. Republic of the Philippines, represented by the Department of Agrarian Reform, headed by Secretary Ernesto D. Garilao, respondent; Land Bank of the Philippines, respondent-appellant.

[4] Records, pp. 103-104.

[5] Id. at 105-106.

[6] Id. at 107-112.

[7] Id. at 113.

[8] Id. at 114.

[9] Id. at 1-5; Docketed as Agrarian Case No. 152.

[10] Records, pp. 14-15.

[11] Id. at 49-51.

[12] Id. at 69-74.

[13] Penned by Judge Arsenio P. Adriano, id. at 76-77.

[14] Id. at 77.

[15] Id. at 76-77.

[16] Records, pp. 100-114.

[17] Id. at 121.

[18] Rollo, p. 62.

[19] Id. at 40.

[20] 478 Phil. 701 (2004).

[21] Id. at 709-711.

[22] G.R. No. 171941, August 2, 2007, 529 SCRA 129.

[23] Land Bank of the Philippines v. Gallego, G.R. No. 173226, January 20, 2009, 576 SCRA 680.

[24] Land Bank of the Philippines v. Banal, *supra* note 20, at 715.

[25] Land Bank of the Philippines v. Heirs of Angel T. Domingo, G.R. No. 168533, February 4, 2008, 543 SCRA 627; Land Bank of the Philippines v. Estanislao, G.R. No. 166777, July 10, 2007, 527 SCRA 181; Land Bank of the Philippines v. Natividad, G.R. No. 127198, May 16, 2005, 458 SCRA 441, 452 citing *Paris v. Alfeche*, 416 Phil. 473 (2001).

[26] RA No. 6657, Sec. 75.

[27] *Supra* note 25, at 452.

[28] Land Bank of the Philippines v. Banal, *supra* note 20, at 711.

[29] Land Bank of the Philippines v. Wycoco, 464 Phil. 83 (2004).

[30] Land Bank of the Philippines v. Gallego, *supra* note 23, at 693.

[31] *Id.*

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