NATIONAL POWER CORPORATION, PETITIONER, VS. BENJAMIN ONG CO, RESPONDENT. D E C I S I O N

G.R. No. 166973. February 10, 2009

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-166973/

TINGA, J.:

Before us is a Rule 45 petition[1] which seeks the reversal of the Decision[2] and Resolution[3] of the Court of Appeals in CA-G.R. No. 79211. The Court of Appeals' Decision affirmed the Partial Decision[4] of the Regional Trial Court (RTC) of San Fernando, Pampanga, Branch 41 in Civil Case No. 12281, fixing the compensation due respondent following the expropriation of his property for the construction of petitioner's power transmission lines.

Petitioner was established by R.A. No. 6395 to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis.[5] Its charter grants to petitioner, among others, the power to exercise the right to eminent domain.[6]

On 27 June 2001, petitioner filed a complaint[7] with the RTC of San Fernando, Pampanga, for the acquisition of an easement of right-of-way over three (3) lots at Barangay Cabalantian, Bacolor, Pampanga with a total area of 575 square meters belonging to respondent, in connection with the construction of its transmission lines for its Lahar Affected Transmission Line Project (Lahar Project).

On 25 March 2002, petitioner obtained a writ of possession and on 15 April 2002 it took possession of the property.

At the pre-trial conference, respondent conceded the necessity of expropriation. Thus, the sole issue for litigation revolved around the determination of just compensation.

The RTC appointed three (3) commissioners[8] to determine the fair market value of the property as of 15 April 2002. Commissioners Dayrit and Garcia submitted their joint report[9] wherein they appraised the value of the property at P1,900.00 per square meter or a total of P1,179,000.00, while Commissioner Abcejo submitted his Commissioner's Report[10] pegging the value of the property at P875.00 per square meter.

The RTC rendered its Partial Decision,[11] wherein it declared the validity of the expropriation and ordered petitioner to pay the sum of P1,179,000.00, with interest at 6% per annum beginning 15 April 2002, the date of actual taking, until full payment. It adopted the findings of Commissioners Dayrit and Garcia as more reliable since their report was based on established facts and they had evaluated the market, location and physical characteristics of the property while Commissioner Abcejo's report had merely taken the average between the Provincial Appraisal Report (P1,500.00/sq.m.) and the Land Bank Appraisal Report (P250.00/sq.m.) that were both done in 1998.

Not satisfied, petitioner filed an appeal with the Court of Appeals.

On 20 October 2004, the Court of Appeals rendered its Decision[12] holding petitioner liable to pay the full fair market value at the time of actual taking, with interest at 6% per annum from 15 April 2002. To determine the actual valuation of the property, the Court of Appeals ordered the RTC to appoint a new set of disinterested commissioners.

Petitioner filed a motion for partial reconsideration, questioning the order to pay the full fair market value computed as of the date of its actual possession of the property. The Court of Appeals denied the motion for partial reconsideration; hence, the present petition.

On 11 April 2007,[13] the Court required the parties to submit their supplemental memoranda discussing the following issues:

> Is Republic Act No. 8974 (2000), otherwise known as "An Act to Facilitate the Acquisition of Right-of-Way, site or Location for National Government Infrastructure Projects and for other purposes," applicable to actions for eminent domain filed by the National Power Corporation (Napocor) pursuant to its charter (Rep. Act. No. 6395, as amended) for the purpose of constructing power transmission lines on the properties subject of said actions?
>
> Assuming that Rep. Act No. 8974 is applicable to said expropriation proceedings:
>
> a. What are the effects, if any, of Rep. Act No. 8974 and its implementing Rules on the Standards for the determination of the provisional value and the final amount of just compensation in the present case, including on the question of whether the just compensation should be reckoned from the date of the filing of the complaint since such date preceded the date of the taking of the property in this case?
>
> b. Is the 10% limit on the amount of just compensation for the acquisition of right-of-way easements on lands or portions thereof to be traversed by the transmission lines, as provided for in Section 3-a(b) of Napocor's charter, still in effect in light of the valuation standards provided for in Rep. Act No. 8974 and its implementing rules?

Eminent domain "is the inherent power of a sovereign state to appropriate private property to particular use to promote public welfare."[14] In the exercise of its power of eminent domain, just compensation must be given to the property owner to satisfy the requirements of Sec. 9, Art. III[15] of the Constitution. Just compensation is the fair market value of the property.[16] Fair market value is 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 a price to be given and received therefor."[17] Judicial determination is needed to arrive at the exact amount due to the property owner.

The power to expropriate is legislative in character and must be expressly conferred by statute. Under its charter, petitioner is vested with the power of eminent domain.

The first aspect of the compensation issue is whether what should be paid is the full fair market value of the property or a mere easement fee. Petitioner relies on Sec. 3A[18] of R.A. No. 6395, as amended, which provides that only an easement fee equivalent to 10% of the market value shall be paid to affected property owners. Based on this amendatory provision, petitioner is willing to pay an easement fee of 10% for the easement of right-of-way it acquired for the installation of power transmission lines.

As intimated in the Court's 2007 Resolution, the case at bar is further complicated by the enactment of R.A. No. 8974 before the filing of the expropriation complaint.

R.A. No. 8974,[19] entitled "An Act To Facilitate The Acquisition Of Right-Of-Way, Site Or Location For National Government Infrastructure Projects And For Other Purposes," defines "national government projects" as follows:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> Sec. 2. National Government Projects--The term "national government projects" shall refer to all national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and -controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of source of funding.

Petitioner expropriated respondent's property for its Lahar Project, a project for public use.[20] In Republic v. Gingoyon (Gingoyon), we observed that R.A. No. 8974 covers expropriation proceedings intended for national government infrastructure projects.[21] The Implementing Rules and Regulations[22] of R.A. No. 8974 explicitly include power generation, transmission and distribution projects among the national government projects covered by the law. There is no doubt that the installation of transmission lines is important to the continued growth of the country. Electricity moves our economy, it is a national concern. R.A. No. 8974 should govern the expropriation of respondent's property since the Lahar Project is a national government project.

Significantly, Gingoyon is explicit authority that R.A. No. 8974 applies with respect to substantive matters covered by it to the exclusion of Rule 67 in cases when expropriation is availed of for a national government project. We noted in Gingoyon:

> It is the plain intent of Rep. Act No. 8974 to supersede the system of deposit under Rule 67 with the scheme of "immediate payment" in cases involving national government infrastructure projects.
>
> x x x
>
> It likewise bears noting that the appropriate standard of just compensation is a substantive matter. It is well within the province of the legislature to fix the standard, which it did through the enactment of Rep. Act No. 8974. Specifically, this prescribes the new standards in determining the amount of just compensation in expropriation cases relating to national government infrastructure projects, as well as the manner of payment thereof. At the same time, Section 14 of the Implementing Rules recognizes the continued applicability of Rule 67 on procedural aspects when it provides "all matters regarding defenses and objections to the complaint, issues on uncertain ownership and conflicting claims, effects of appeal on the rights of the parties, and such other incidents affecting the complaint shall be resolved under the provisions on expropriation of Rule 67 of the Rules of Court.[23]

The right of a property owner to receive just compensation prior to the actual taking of the property by the State is a proprietary right which Congress can legislate on.[24] R.A. No. 8974 being applicable in this case, the government agency involved must comply with the guidelines set forth in Sec. 4[25] of R.A. No. 8974.

As earlier mentioned, Section 3A of R.A. No. 6395, as amended, substantially provides that properties which will be traversed by transmission lines will only be considered as easements and just compensation for such right of way easement shall not exceed 10 percent of the market value.[26] However, this Court has repeatedly ruled that when petitioner takes private property to construct transmission lines, it is liable to pay the full market value upon proper determination by the courts.[27]

In National Power Corporation v. Manubay Agro-Industrial Development Corporation,[28] we held that the taking of property was purely an easement of a right of way, but we nevertheless ruled that the full market value should be paid instead of an easement fee.[29] This Court is mindful of the fact that the construction of the transmission lines will definitely have limitations and will indefinitely deprive the owners of the land of their normal use.

The presence of transmission lines undoubtedly restricts respondent's use of his property. Petitioner is thus liable to pay respondent the full market value of the property.

The second aspect of the compensation issue relates to the reckoning date for the determination of just compensation. Petitioner contends that the computation should be made as of 27 June 2001, the date when it filed the expropriation complaint, as provided in Rule 67. We agree.

Rule 67 clearly provides that the value of just compensation shall "be determined as of the date of the taking of the property or the filing of the complaint, whichever came first."[30] In B.H. Berkenkotter & Co. v. Court of Appeals, we held that:

> It is settled that just compensation is to be ascertained as of the time of the taking, which usually coincides with the commencement of the expropriation proceedings. Where the institution of the action precedes entry into the property, the just compensation is to be ascertained as of the time of the filing of the complaint.[31] (emphasis supplied)

Typically, the time of taking is contemporaneous with the time the petition is filed. The general rule is what is provided for by Rule 67. There are exceptions--grave injustice to the property owner,[32] the taking did not have color of legal authority,[33] the taking of the property was not initially for expropriation[34] and the owner will be given undue increment advantages because of the expropriation.[35] However, none of these exceptions are present in the instant case.

Moreover, respondent's reliance on the ruling in City of Cebu v. Spouses Dedamo,[36] is misplaced since the applicable law therein was the Local Government Code which explicitly provides that the value of just compensation shall be computed at the time of taking.[37]

Based on the foregoing, the reckoning date for the determination of the amount of just compensation is 27 June 2001, the date when petitioner filed its expropriation complaint.

As a final note, the function for determining just compensation remains judicial in character. In Export Processing Zone Authority v. Dulay,[38] and National Power Corporation v. Purefoods,[39] we ruled:

> The determination of "just compensation" in eminent domain cases is a judicial function. The executive department or legislature may make the initial determinations but when a party claims a violation of the guarantee in the Bill of Rights that private property may not be taken for public use without just compensation, no statute, decree, or executive order can mandate its own determination shall prevail over the court's findings. Much less can the courts be precluded from looking into the "just-ness" of the decreed compensation.[40]

Thus, the lower court must use the standards set forth in Sec. 5[41] of R.A. No. 8974 to arrive at the amount of just compensation.

To recapitulate, R.A. No. 8974 applies to properties expropriated for the installation of petitioner's power transmission lines. Also, petitioner is liable to pay the full amount of the fair market value and not merely a 10 percent easement fee for the expropriated property. Likewise, the value of the property should be reckoned as of 27 June 2001, the date of the filing of the complaint in compliance with Rule 67. Lastly, respondent failed to assign as error the Court of Appeals' ruling regarding the need to appoint a new set of commissioners.[42] However, even if respondent had assigned the matter as error, it would still be denied since the conflicting appraisals submitted by the commissioners were not both reckoned as of the date of filing of the complaint. Thus, there is need to remand this case in line with the appellate court's valid directive for the new set of commissioners.

WHEREFORE the petition is partially GRANTED. The Decision of the Court of Appeals is AFFIRMED insofar as it ordered petitioner to pay the full amount of the fair market value of the property involved as just

compensation and is REVERSED insofar as it directed that such compensation be computed as of the date of taking instead of earlier which is the date of filing of the complaint. This case is REMANDED to the trial court for the appointment of a new set of commissioners in accordance with Sec. 8, Rule 67 of the Rules of Court and the determination of just compensation in conformity with this Decision. The Regional Trial Court of San Fernando City, Pampanga is directed to conduct, complete and resolve the further proceedings with deliberate dispatch.

SO ORDERED.

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

---

f[1] Rollo, pp. 9-26.

[2] Dated 20 October 2004, penned by Associate Justice Conrado M. Vazquez and concurred in by Associate Justices Edgardo F. Sundiam and Fernanda Lampas Peralta; id. at 31-41.

[3] Dated 19 January 2005, penned by Associate Justice Conrado M. Vazquez and concurred in by Associate Justices Edgardo F. Sundiam and Fernanda Lampas Peralta; id. at 42-44.

[4] Dated 19 February 2003, penned by Judge Divina Luz P. Aquino-Simbulan; id. at 93-98.

[5] Republic Act No. 6395, Sec. 2.

[6]Republic Act No. 6395, Sec. 3(j) To exercise the right of eminent domain for the purpose of this Act in the manner provided by law for instituting condemnation proceedings by the national, provincial and municipal governments;

[7] Rollo, pp. 43-44.

[8]The following were appointed as commissioners, Provincial Assessor Arturo Dayrit as chairman, while Engineer Moiselito Abcejo was the representative of NPC, and realtor Conrado Garcia was Ong Co's representative, However, on 08 August 2002, Conrado Garcia was replaced by Eller Garcia.

[9]Dated 29 October 2002; rollo, pp. 75-86.

[10]Dated 31 October 2002; id. at 87-89.

[11]Supra note 4.

[12] Supra note 2.

[13] See Resolution of the Court. id at 207-208.

[14] Republic v. Court of Appeals, G.R. No. 147245, 31 March 2005, 454 SCRA 516.

[15]Sec. 9--Private property shall not be taken for public use without just compensation.

[16]National Power Corporation v. Igmedio, 452 Phil. 649, 663 (2003).

[17] City of Manila v. Estrada, 25 Phil. 208, 215 (1913).

[18] Presidential Decree No. 938 (1976). 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

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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--

> (a) With respect to the acquired land or portion thereof, not to exceed 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.
>
> 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.

In addition to the just compensation for easement of right-of-way, the owner of the land or owner of the improvement, as the case may be, shall be compensated for the improvements actually damaged by the construction and maintenance of the transmission lines, in an amount not exceeding the market value thereof as 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; Provided, that in cases any buildings, houses and similar structures are actually affected by the right-of-way for the transmission lines, their transfer, if feasible, shall be effected at the expense of the Corporation; Provided, further, that such market value prevailing at the time the Corporation gives notice to the landowner or administrator or anyone having legal interest in the property, to the effect that his land or portion thereof is needed for its projects or works shall be used as basis to determine the just compensation therefor.

[19] Enacted on 7 November 2000.

[20] Complaint filed by NPC; Rollo, p. 48.

[21] Republic v. Gingoyon, G.R. No. 166429, 19 December 2005, 478 SCRA 479, 515.

[22]Implementing Rules and Regulations of R.A. No 8974 (2001)

Sec. 2. Definition of Terms.--

x x x

(d) National government projects--based on Section 2 of the Act, refer to all to all national government infrastructure, engineering works, and service contracts, including all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-Transfer Law x x x these projects shall include, but not limited, to x x x steam and power generation, transmission and distribution x x x

[23]Republic v. Gingoyon, G.R. No. 166429, 19 December 2005, 478 SCRA 474, 519-520.

[24] Resolution denying Motion for Reconsideration in Republic v. Gingoyon, G.R. No. 166429, 1 February 2006, 481 SCRA 457.

[25] Section 4. Guidelines for Expropriation Proceedings.--Whenever it is necessary to acquire real property for the right-of-way, site or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

> (a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately pay the owner of the property the amount equivalent to the sum of (1) one hundred percent

> (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR); and (2) the value of the improvements and/or structures as determined under Section 7 hereof;
>
> (b) In provinces, cities, municipalities and other areas where there is no zonal valuation, the BIR is hereby mandated within the period of sixty (60) days from the date of filing of the expropriation case, to come up with a zonal valuation for said area; and
>
> (c) In case the completion of a government infrastructure project is of utmost urgency and importance, and there is no existing valuation of the area concerned, the implementing agency shall immediately pay the owner of the property its proferred value taking into consideration the standards prescribed in Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.

Before the court can issue a Writ of Possession, the implementing agency shall present to the court a certificate of availability of funds from the proper official concerned.

In the event that the owner of the property contests the implementing agency's proferred value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the implementing agency shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.

[26] Supra note 18.

[27] National Power Corporation v. Gutierrez, G.R. No. 160077, 18 January 1991, 193 SCRA 1; National Power Corporation v. Bongbong, G.R. No. 164079, 3 April 2007, 520 SCRA 290; National Power Corporation v. Chiong, 452 Phil. 149 (2003); National Power Corporation v. Aguirre-Paderanga, G.R. No. 155065, 28 July 2005, 464 SCRA 481

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

[29] Id. at 67.

[30] Rules OF COURT, Rule 67, Sec. 4. provides:

If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint whichever came first.

xxx

[31] G.R. No. 89980, 14 December 1992, 216 SCRA 584,587, citing Republic v. Philippine National Bank, 1 SCRA 957 and reiterated in National Power Corporation v. Dela Cruz, G.R. No. 156093, 2 February 2007, 514 SCRA 56; Romonafe Corporation v. National Power Corporation, G.R. No. 168122, 30 January 2001, 513 SCRA 425, 429.

[32] Heirs of Mateo Pidacan and Romana Eigo v. Air Transportation Office (ATO), G.R. No. 162779, 15 June 2007, 524 SCRA 679, 687.

[33] National Power Corporation v. Ibrahim, G.R. No. 168732, 29 June 2007, 526 SCRA 149, 169 reiterating National Power Corporation v. Court of Appeals, 254 SCRA 577.

[34] Tan v. Republic, G.R. No. 170740, 25 May 2007, 523 SCRA 203, 213.

[35] Provincial Government of Rizal v. Caro de Araullo, 58 Phil. 308 (1933).

[36] 431 Phil. 525 92002).

[37] Republic Act No. 7160(1991), Sec. 19. Eminent Domain-- A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose, or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, that the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, that the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated. Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property.

[38] Export Processing Zone Authority v. Dulay, 233 Phil. 313 (1987).

[39] National Power Corporation v. Purefoods Corporation, G.R. No. 160725, 12 September 2008.

[40]Supra note 39 at 326.

[41] Sec. 5. Standards for the Assessment of the Value of the Land Subject of Expropriation Proceedings or Negotiated Sale.--In order to facilitate the determination of just compensation, the court may consider, among other well-established factors, the following relevant standards:

(a) The classification and use for which the property is suited;

(b) The developmental costs for improving the land;

(c) The value declared by the owners;

(d) The current selling price of similar lands in the vicinity;

(e) The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon;

(f) The size, shape, or location, tax declaration and zonal valuation of the land;

(g) The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

(h) Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

[42] Rules of Court, Rule 51, Sec. 8--No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.