ERNESTINA L. CRISOLOGO-JOSE, PETITIONER, VS. LAND BANK OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 167399. June 22, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner Ernestina L. Crisologo-Jose seeks to set aside the Decision of the Court of Appeals (CA) dated October 15, 2004[1] in CA-G.R. CV No. 69463 and its Resolution of January 24, 2005[2] denying her motion for reconsideration.

Records yield the following facts:

Petitioner is the owner of 34.6960 hectares of land which used to form part of a larger expanse situated in Talavera, Nueva Ecija and covered by Transfer Certificate of Title (TCT) No. NT-147218 of the land records of North Nueva Ecija. She is also the owner of several parcels of land situated in the same municipality with a total area of 27.09 hectares and covered by twelve (12) separate titles, i.e., TCT Nos. 155604 -09, 155611, 155615, 245112-15. According to the petitioner, respondent Land Bank of the Philippines (Land Bank) gave these landholdings – which she inherited from her uncle, Alejandro T. Lim - a measly valuation of P9,000.00 per hectare.

Excepting from the valuation purportedly thus given, petitioner filed on September 25, 1997, a PETITION[3] for determination of just compensation respecting her landholdings aforementioned. In said petition, docketed as AGR. CASE No. 962-G of the Regional Trial Court of Guimba, Nueva Ecija, petitioner prayed that "the sum of P100,000.00 at least per hectare, or the total sum of P6,178,600.00 be fixed as just compensation of the total area of 61.7860 hectares," it being her allegation that her computation hewed with the guidelines established under the Comprehensive Agrarian Reform Law[4] and other related statutes.

It appears that in the midst of petitioner's presentation of her evidence, the trial court admitted Land Bank's ANSWER where, in gist, it alleged the following:

1. Of the 203.1060 hectares covered by TCT No. NT-147218, 168.31 hectares thereof was actually acquired by DAR from Alejandro T. Lim pursuant to Operation Land Transfer under Presidential Decree (P.D.) No. 27, at P8,732.51 per hectare. The remaining 34.7960 hectares were left out from the coverage being either a school site, a creek, a road or residential area.

2. With respect to the other landholdings purportedly situated in Talavera, Nueva Ecija, the claim folders thereof, if any, had not been forwarded to the bank by the DAR.

On September 8, 1999, the trial court, after due proceedings, rendered judgment fixing the fair market value of the

61.7860 hectares of the land in question at P100,000.00 per hectare. But beyond value determination, the trial court ordered the respondent to pay petitioner the total sum of P6,178,600.00, subject to the usual rules and regulation regarding payment.[5]

Following the denial of its motion for reconsideration, respondent Land Bank went on appeal to the CA whereat its recourse was docketed as CA-G.R. CV No. 69463.

Eventually, the CA, in a decision dated October 15, 2004, reversed that of the trial court, disposing as follows:

> WHEREFORE, premises considered, the instant appeal is hereby GRANTED. The assailed decision dated September 8, 1999 is hereby REVERSED and SET ASIDE, entering a new one DISMISSING the case for lack of merit.
>
> SO ORDERED. (Emphasis in the original)

In time, petitioner moved for reconsideration but the CA denied her motion in its equally assailed resolution of January 24, 2005.

Hence, petitioner's present recourse on both procedural and substantive grounds.

The petition is without merit

On the procedural angle, petitioner faults the appellate court for relying on and lending credence to the allegations and defenses that respondent averred in its answer which it filed beyond the 15-day period prescribed under Section 1, Rule 11 of the Rules of Court.[6] Petitioner also blames the trial court for admitting, instead of expunging from the records, said answer and for not declaring the respondent in default.

We are not persuaded.

To admit or to reject an answer filed after the prescribed period is addressed to the sound discretion of the court.[7] In fact, Section 11, Rule 11 of the Rules authorizes the court to accept answer though filed late, thus:

> SECTION. 11. Extension of time to plead. – Upon motion and on such terms as may be just, the court may extend the time to plead provided in these Rules.
>
> The court may also, upon like terms, allow an answer or other pleading to be filed after the time fixed by these Rules. (Emphasis added.)

And as Indiana Aerospace University vs. Commission on Higher Education[8] teaches, an answer should be admitted where it had been filed before the defendant was declared in default and no prejudice is caused to the plaintiff, as here. Indeed, petitioner has not demonstrated how the admission by the trial court of respondent's answer was prejudicial to her case which, at bottom, involves only the determination of the fair market value of her property.

Given Indiana Aerospace and other related cases cited therein virtually all of which is one in saying that default orders should be avoided, petitioner's lament about the trial court not declaring the respondent in default for alleged belated filing of answer should be denied cogency. What is more, a declaration of default, if proper, shall not issue unless the claiming party asked for it. As we said in Trajano vs. Cruz,[9] applying what is now Section 3, Rule 9 of the Rules of Court[10] "the court cannot motu proprio declare a party in default." In the words of Justice Regalado "there must be a motion [for a declaration of default] by the plaintiff with proof of failure by the defendant to file his responsive pleading despite due notice."[11]

Not lost on the Court, of course, is the fact that petitioner, after securing the desired ruling from the trial court, never brought up the matter of respondent's belated filing of an answer before the CA. Needless to belabor, issues

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not raised below cannot, as a rule, be raised for the first time before the Court.

This brings us to the issue of just compensation, a component in the implementation of the agrarian reform program which partakes of the exercise of the power of eminent domain.[12]

Just compensation, under the premises, presupposes the expropriation or taking of agricultural lands for eventual distribution to agrarian reform beneficiaries. In the case at bench, respondent has averred and the CA has peremptorily determined that the tracts of land for which petitioner is claiming just compensation have not actually been acquired by the government.

With respect to the parcels of land with a total area of 27.09 hectares and covered by TCT Nos. 155604, 155605, 155606, 155607, 155608, 155609, 155611 155615, 245112, 245113, 245114 and 245115, the appellate court found that the claim folders therefor have not been forwarded to the respondent bank for processing and eventual payment of the transfer claims. This reality could only mean, so the CA correctly concludes, that the Department of Agrarian Reform (DAR) has not yet expropriated the parcels in question for agrarian reform purposes. In other words, ownership or at least control over the 27.09 hectares has not passed from the registered owner to the expropriator. Petitioner could have had proven – but had not - the fact of actual or symbolic compulsory taking by presenting evidence to that effect, such as the required Notice of Valuation which usually follows the Notice of Coverage, the letter of invitation to a preliminary conference and the Notice of Acquisition that DAR sends, pursuant to DAR administrative issuances, to the landowner affected.[13]

Just like the matter of the 27.09 hectares of land immediately referred to above, petitioner has not discharged her burden of proving the acquisition by the DAR of the other 34.6960 hectares of land once covered by TCT No. NT-147218. But even if perhaps she wanted to, she could not have possibly done so, that portion being either a school site, a creek or residential area, ergo unsuitable for agricultural activities and, hence, outside the scope of the agrarian reform program, be it under the CARL law[14] or the more exacting P.D. No. 27.[15] It must be stressed, at this juncture, that respondent had all along – i.e., in its basic answer, its CA appeal brief and finally in its Memorandum filed with the Court - stuck to its position that the 27.09-hectare area was never taken over by the DAR; and that no claim for compensation therefor was ever processed, as is usual in agrarian compulsory acquisition scheme, under the summary administrative proceedings prescribed by governing DAR circulars. Yet, the petitioner never attempted to prove the contrary. Significantly, save for determining the fair market value of the landholdings in question, no reference is also made in the decision of the trial court regarding the actual expropriation of the specific parcels of land subject of this case, albeit, quite strangely, it ordered payment of the value of the property in question.

To reiterate, just compensation in agrarian reform cases shall be paid for private agricultural lands taken under the compulsory acquisition scheme for distribution to tenant-farmer beneficiaries. Remove the element of compulsory taking and it is futile even to dwell on the just compensation formula, let alone ordering payment thereof. So it must be here.

WHEREFORE, the instant petition is DENIED and the assailed Decision and Resolution of the Court of Appeals are accordingly AFFIRMED.

Costs against the petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justice Salvador J. Valdez, Jr. (ret.) and Associate Justice Vicente Q. Roxas; Rollo, pp. 59 et seq.

[2] Id. at 67.

[3] Annex "A," Petition; Id. at 28-30.

[4] R.A. No. 6657, as amended.

[5] Annex "C," Petition; Rollo, pp. 34 et seq.

[6] Section 1. Answer to the complaint. – The defendant shall file his answer to the complaint within fifteen (15) days after service of summons, unless a different period is fixed by the court.

[7] Regalado, REMEDIAL LAW COMPENDIUM, Vol. I, 6[th] ed., p. 189.

[8] G.R. No. 139371, April 4, 2001, 356 SCRA 367.

[9] No. L-47070, Dec. 29, 1977, 80 SCRA 712.

[10] If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party and proof of such failure, declare the defending party in default. xxx.

[11] Regalado, supra, citing Sarmiento vs. Juan, G.R. No. 56605, Jan. 28, 1983, 120 SCRA 403.

[12] Association of Small Land Owners in the Phil., Inc. vs. Secretary of Agrarian Reform, G.R. No. 78742, July 14, 1989, 175 SCRA 343.

[13] Roxas & Co. vs. CA, G.R. No. 127876, Dec. 17, 1999; 321 SCRA 106.

[14] Covers, per Sec. 4 of R.A. No. 6657, all public and private agricultural lands, i.e., land devoted to agricultural activity, regardless of tenurial arrangement; Natalia Realty, Inc. vs. DAR, G.R. No. 103302, August 12, 1993, 225 SCRA 278.

[15] Covers only tenanted agricultural lands planted to rice and/or corn.

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