

**LAND BANK OF THE PHILIPPINES, Petitioner, vs. HEIRS OF ANGEL T. DOMINGO, namely MA. ALA F. DOMINGO and MARGARITA IRENE F. DOMINGO, Respondents.**

*G.R. No. 168533. February 04, 2008*

Ponente: CARPIO, J.

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**CARPIO, J.:**

**The Case**

The Land Bank of the Philippines (LBP) filed this Petition for Review[1] to reverse the Court of Appeals' Decision[2] dated 30 March 2005 in CA-G.R. SP No. 85510 as well as the Resolution dated 9 June 2005 denying the Motion for Reconsideration. In the assailed decision, the Court of Appeals affirmed the Decision[3] dated 12 April 2004 of the Regional Trial Court, Branch 33 (trial court) in Guimba, Nueva Ecija. The trial court, acting as a Special Agrarian Court, directed LBP and the Department of Agrarian Reform (DAR) to pay P15,223,050.91 as just compensation for 262.2346 hectares of land covered by Presidential Decree No. 27[4] (PD 27) as implemented in Executive Order No. 228[5] (EO 228).

**The Facts**

Angel T. Domingo (Domingo)[6] is the registered owner of a parcel of land with a total area of 300.4023 hectares covered by Transfer Certificate of Title (TCT) Nos. NT-97436, NT-97437, NT-97438, NT-97439, and NT-97440, situated in Guimba, Nueva Ecija.[7] This parcel of land was tilled by tenant farmers. Pursuant to PD 27 issued on 21 October 1972 and EO 228 dated 17 July 1987, the actual tenant tillers are deemed full owners of the land they till.[8] Of the 300.4023 hectares, 262.2346 hectares of land (subject land) were taken by the government under its agrarian reform program and awarded to the beneficiaries, who are tenant farmers (farmer-beneficiaries).

The subject land is situated about three kilometers from the town proper and accessible by a feeder road. Based on the findings of the Officer-In-Charge, Branch Clerk of Court, Mr. Arsenio S. Esguerra, Jr., who conducted an ocular inspection in compliance with the trial court's order, the subject land is irrigated with the use of water pumps installed by the farmer-beneficiaries.[9] As per certification dated 27 February 1981 by the DAR Team Office of Guimba, Nueva Ecija, the average gross production (AGP) is 91.42 cavans of palay per hectare[10] and the land is capable of 2 ½ harvests in two years.[11] However, as reflected in the records of this case, the AGP of 91.42 cavans is for TCT No. 97155 which is not among the titles covered in this subject land. On the contrary, LBP alleged that the subject land was producing at most only 41.42 cavans of palay per hectare as of 1972.[12] Several emancipation patents were issued and annotated on the TCTs, to wit:[13]

**TCT NO.**

Number of Emancipation  
Patents Issued

Year

NT-97436

NT-97436

25

1

1990

2000

NT-97437

NT-97437

NT-97437

NT-97437

NT-97437

21

21

40

22

1

1988

1989

1992

1994

2000

NT-97438

NT-97438

NT-97438

67

60

10

1989

1993

1994

### **NT-97439**

39

1990

### **NT-97440**

42

1990

Using the guidelines for just compensation embodied in PD 27 and implemented in EO 228, the DAR fixed the value of the subject land consisting of 262.2346 hectares at P2,086,735.09.[14]The formula used to compute the land value was:

$$\begin{aligned}\text{LAND VALUE} &= \text{Average Gross Production (AGP)} \times 2.5 \\ &\times \text{Government Support Price (GSP)} \\ &= 91.42 \times 2.5 \times 35\end{aligned}$$

$$= \text{P } 7,999.25$$

The GSP for one cavan of 50 kilos palay in 21 October 1972 was P35.[15]

Based on DAR Administrative Order No. 13 (DAR AO 13),[16] series of 1994, a 6% increment in the amount of P627,456.28 was added to the original valuation.[17]

In the Claims Processing Form dated 29 April 2002 and submitted by the LBP, the distribution of payment was as follows:

Cash

Bonds

Total

Net Land Value as amended

208,735.09

1,878,000.00

2,086,735.09

Less: Payments

184,999.71

1,661,000.00

1,845,999.71

Net Amount due Landowner

23,735.38

217,000.00

240,735.38

Increment

627,456.28

Total Value of Claim

**P 868,191.66**

Despite receipt of P1,845,999.71 as partial payment from LBP, Domingo rejected the final payment of P868,191.66. Thus, LBP deposited this amount in cash and bonds and proceeded to distribute the subject land to various farmer-beneficiaries.

On 31 July 2002, Domingo filed a Petition for Determination and Payment of Just Compensation in the trial court of Guimba, Nueva Ecija.

In his Petition, Domingo prayed that the just compensation for the subject land be determined in accordance with the formula in Section 17 of Republic Act No. 6657[18] (RA 6657) which would amount to P39,335,190.00 computed at P150,000 per hectare.[19]

In its Answer, LBP maintained that Domingo's unirrigated land is covered by PD 27 and EO 228 being primarily devoted to rice and tenanted as of 21 October 1972. LBP stated that the valuation formula found in PD 27 and EO 228 is the applicable formula for computing just compensation.[20]

On 12 April 2004, the trial court, after hearing the case, ruled that the subject land's date of taking is not 21 October 1972 when PD 27 took effect. Instead, the issuance dates of the emancipation patents should determine the date of taking because these are when the ownership of a determinate portion of the subject land was transferred to the farmer-beneficiaries. The trial court further stated that LBP's contention to compute just compensation based on the formula prescribed in PD 27 and EO 228 cannot be sustained. These laws are only suppletory to RA 6657 which is the latest law on agrarian reform. The trial court deemed it necessary to apply suppletorily the formula in PD 27 and EO 228. The trial court computed just compensation as follows:

TCT No.

Year of Issuance

No. of  
Hectares

Land Value (AGP x 2.5  
x GSP[21])

Sub Total

**NT-97436**

1990

18.6291

91.42[22] x 2.5 x 300

1,277,304.24

**NT-97436**

2000

1.4168

91.42 x 2.5 x 500

161,904.82

**NT-97437**

1988

2.5631

91.42 x 2.5 x 175

102,514.38

**NT-97437**

1989

0.8074

91.42 x 2.5 x 175

32,292.97

**NT-97437**

1992

43.5805

91.42 x 2.5 x 300

2,288,096.98[23]

**NT-97437**

1993

7.7330

91.42 x 2.5 x 300

530,213.14

**NT-97437**

1994

4.0186

91.42 x 2.5 x 300

275,535.30

**NT-97437**

2000

1.8482

91.42 x 2.5 x 450

190,082.74

**NT-97438**

1989

3.5594

91.42 x 2.5 x 175

142,362.65

**NT-97438**

1989

49.6899

91.42 x 2.5 x 250

2,839,156.66

**NT-97438**

1993

2.2853

91.42 x 2.5 x 300

156,691.59

**NT-97438**

1994

1.4511

91.42 x 2.5 x 300

99,494.67

**NT-97439**

1990

59.6399

91.42 x 2.5 x 250

3,407,674.78

**NT-97439**

1990

2.5119

91.42 x 2.5 x 250

143,523.68

**NT-97440**

1990

62.5019

91.42 x 2.5 x 250

3,571,202.31

Total

15,223,050.91[24]

The trial court issued a decision which disposed of the present case as follows:

Wherefore, judgment is hereby rendered in favor of the plaintiff as follows:

- Fixing the just compensation for plaintiff's 262.2346 hectare land covered by P.D. 27 at P15,223,050.91 inclusive of the increment provided for under DAR AO No. 13 computed from the time of taking up to the date of this decision.
- Directing defendants DAR and LBP to pay the plaintiff the above-mentioned amount of money as the amount of just compensation for his land.

SO ORDERED. [25]

Dissatisfied with the decision, LBP filed a Motion for Reconsideration stating that the trial court erred in adopting an AGP of 91.42 cavans as certified by the DAR's team leader in lieu of 41.67 cavans as established by the Barangay Committee on Land Production (BCLP). LBP asserted that the trial court erred in using the issuance dates of the emancipation patents as the date of taking instead of complying with the legal provision in PD 27 that the emancipation of all tenant farmers was on 21 October 1972.

On 8 July 2004, the trial court issued an Order denying the motion for lack of merit. LBP filed a Petition for Review before the Court of Appeals pursuant to Section 60 of RA 6657.

LBP argued that the trial court gravely erred in applying RA 6657 to determine just compensation for the subject land acquired under PD 27 and EO 228 on the assumption that the former should prevail being the latest law on agrarian reform. LBP further claimed that the trial court erred in relying on the certification, dated 27 February 1981 and issued by the DAR's Agrarian Reform Team at Guimba, Nueva Ecija, adopting an AGP of 91.42 cavans and disregarding 41.67 cavans as found by the BCLP.

Domingo contended that the trial court was correct in using the AGP of 91.42 cavans and the GSP prevailing as of the years 1988 to 2000, pursuant to settled jurisprudence that just compensation should be reckoned as of the date of taking of the expropriated property.

On 30 March 2005, the Court of Appeals affirmed the trial court's decision and dismissed the petition for lack of merit. LBP filed a Motion for Reconsideration which the Court of Appeals denied.

Hence, the instant petition.

#### The Ruling of the Court of Appeals

The Court of Appeals affirmed the trial court's decision. It reasoned that RA 6657 covers all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229.[26] Phase one of RA 6657 includes the acquisition and distribution of rice and corn lands under PD 27. The provisions in RA 6657 show that PD 27 lands are among the properties which DAR shall acquire and distribute to the landless.[27] RA 6657 also states that the provisions of PD 27 and EO 228 shall have suppletory effect.

The Court of Appeals pointed out that 21 October 1972 cannot be considered as the "date of taking" for the purpose of determining just compensation. It ruled that it was only when the emancipation patents were issued to the farmer-beneficiaries that Domingo recognized their ownership of the property. Hence, the issuance dates of the emancipation patents should be considered as the date of taking.

The Court of Appeals also ruled that the AGP determined by the BCLP cannot prevail over the AGP of 91.42 cavans of palay per hectare as testified by Domingo and his witness Patricio Mendoza, whose testimonies have been confirmed by competent officials: DAR Team Leader, Warehouse Supervisor of National Food Authority, Senior Agrarian Reform Technician, and the Collection Supervisor of the Bureau of Internal Revenue.

Moreover, the appellate court held that since the trial court's decision utilized the higher GSP, Domingo is no longer entitled to the 6% incremental interest provided in DAR AO No. 13.

#### The Issues

LBP raises two issues[28] in this Petition:

- Whether the taking of Domingo's riceland should be reckoned from the issuance of emancipation patents or upon the effectivity of PD 27 on 21 October 1972; and
- Whether RA 6657 should apply in the determination of just compensation of riceland taken under PD 27 and EO 228.

#### The Ruling of the Court

The Tenant Emancipation Decree or PD 27 was anchored upon the fundamental objective of addressing legitimate concerns of land ownership giving rise to social tension in the countryside. PD 27 also recognized the necessity to encourage a more productive agricultural base of the country's economy.[29] To address these concerns, PD 27 expressly ordered the emancipation of the tenant farmer as of 21 October 1972 and declared that he shall "be deemed the owner" of the portion of the land that he tills. Subsequently, EO 228 declared full land ownership to all qualified farmer beneficiaries as of 21 October 1972 and gave the formula for land valuation.

On 15 June 1988, the Comprehensive Agrarian Reform Law (CARL) or RA 6657 was enacted to promote social justice to the landless farmers and provide "a more equitable distribution and ownership of land with due regard to the rights of landowners to just compensation and to the ecological needs of the nation." [30]

Section 4 of RA 6657 provides that the CARL shall cover all public and private agricultural lands including other lands of the public domain suitable for agriculture. Section 7 provides that rice and corn lands under PD 27, among other lands, will comprise phase one of the acquisition plan and distribution program. Section 75 states that the provisions of PD 27 and EO 228 and 229,[31] and other laws not inconsistent with RA 6657 shall have

suppletory effect.

In *Paris v. Alfeche*,<sup>[32]</sup> the Court ruled that RA 6657 includes PD 27 lands among the properties which the DAR shall acquire and distribute to the landless. In *Land Bank v. Court of Appeals*,<sup>[33]</sup> the Court added that Sections 16, 17, and 18 of RA 6657 should be followed in the acquisition and distribution of PD 27 lands.

Hence, the provisions of RA 6657 apply to the present case with PD 27 and EO 228 having suppletory effect.

#### Just Compensation for PD 27 Lands

The crux of this controversy is to determine the proper land valuation to compute the just compensation for purposes of agrarian reform under PD 27.

Section 9, Article III of the 1987 Constitution provides that no private property shall be taken for public use without just compensation. As a concept in the Bill of Rights, just compensation is defined as the fair or market value of the property as between one who receives, and one who desires to sell.<sup>[34]</sup>

Section 4, Article XIII of the 1987 Constitution mandates that the redistribution of agricultural lands shall be “subject to the payment of just compensation.” The deliberations of the 1986 Constitutional Commission on this subject reveal that just compensation should not do violence to the Bill of Rights but should also not make an insurmountable obstacle to a successful agrarian reform.<sup>[35]</sup> Hence, the landowners’ right to just compensation should be balanced with agrarian reform. In *Land Bank v. Court of Appeals*,<sup>[36]</sup> we declared that it is the duty of the court to protect the weak and the underprivileged, but this duty should not be carried out to such an extent as to deny justice to the landowner whenever truth and justice happen to be on his side.

In *Land Bank v. Natividad*,<sup>[37]</sup> the Court held that the determination of just compensation “in accordance with RA 6657, and not PD 27 and EO 228, is especially imperative 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.” In this same case, this Court also had the occasion to discuss the just compensation for PD 27 lands, thus:

“Land Bank’s contention that the property was acquired for purposes of agrarian reform on October 21, 1972, the time of the effectivity of PD 27, ergo just compensation should be based on the value of the property as of that time and not at the time of possession in 1993, is likewise erroneous. In *Office of the President, Malacañang, Manila v. Court of Appeals*, we ruled that the seizure of the landholding did not take place on the date of effectivity of PD 27 but would take effect on the payment of just compensation.

Under the factual circumstances of this case, the agrarian reform process is still incomplete as the just compensation to be paid private respondents has yet to be settled. Considering the passage of Republic Act No. 6657 (RA 6657) before the completion of this process, the just compensation should be determined and the process concluded under the said law. Indeed, RA 6657 is the applicable law, with PD 27 and EO 228 having only suppletory effect, conformably with our ruling in *Paris v. Alfeche*.

Section 17 of RA 6657 which is particularly relevant, providing as it does the guideposts for the determination of just compensation, reads as follows:

Sec. 17. Determination of Just Compensation. – In determining just compensation, the cost of acquisition of the land, the current value of the 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.

It would certainly be inequitable to determine just compensation based on the guideline provided by PD 27 and EO 228 considering the DAR's failure to determine the just compensation for a considerable length of time. That just compensation should be determined in accordance with RA 6657, and not PD 27 or EO 228, is especially imperative 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.”[38]

There is no doubt that Domingo's land was taken by the government under PD 27. However, it was only in 1994 when LBP prepared the Land Transfer Payment Form which was superseded by a Claims Processing Form issued in 2002.

In *Association of Small Landowners v. Secretary of Agrarian Reform*,[39] the Court held that it is a recognized rule that title to the property expropriated shall pass from the owner to the expropriator only upon full payment of just compensation. The Court further held that:

“It is true that P.D. No. 27 expressly ordered the emancipation of tenant-farmer as [of] October 21, 1972 and declared that he shall ‘be deemed the owner’ of a portion of land consisting of a family-sized farm except that ‘no title to the land owned by him was to be actually issued to him unless and until he had become a full-fledged member of a duly recognized farmer’s cooperative.’ It was understood, however, that full payment of just compensation also had to be made first, conformably to the constitutional requirement.”[40] (Underscoring supplied)

LBP's contention that the property was taken on 21 October 1972, the date of effectivity of PD 27, thus just compensation should be computed based on the GSP in 1972, is erroneous. The date of taking of the subject land for purposes of computing just compensation should be reckoned from the issuance dates of the emancipation patents. An emancipation patent constitutes the conclusive authority for the issuance of a Transfer Certificate of Title in the name of the grantee.[41] It is from the issuance of an emancipation patent that the grantee can acquire the vested right of ownership in the landholding,[42] subject to the payment of just compensation to the landowner.

When RA 6657 was enacted into law in 1988, the agrarian reform process in the present case was still incomplete as the amount of just compensation to be paid to Domingo had yet to be settled. Just compensation should therefore be determined and the expropriation process concluded under RA 6657.

Guided by this precept, just compensation for purposes of agrarian reform under PD 27 should adhere to Section 17 of RA 6657 which states:

Sec. 17. Determination of Just Compensation. - In determining just compensation, the cost of acquisition of the land, the current value of the 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.

In *Land Bank v. Natividad*,[43] the Court upheld the trial court's decision valuing the property on account of its nature, location, market value, assessor's value and volume and value of its produce.

In *Land Bank v. Estanislao*,[44] this Court upheld the just compensation of P20 per square meter which was determined in accordance with Section 17 of RA 6657.

In *Lubrica v. Land Bank*,[45] the Court mandated that “Land Bank should compensate the landowner in such amount as may be agreed upon by the landowner and the DAR and the LBP or as may be finally determined by

the Court as the just compensation.”

In sum, we affirm the rulings of the trial court and the appellate court that the provisions of RA 6657 apply to the present case and that the date of taking of Domingo’s riceland for purposes of computing just compensation should be reckoned from the issuance dates of emancipation patents. However, the just compensation for the subject land in the present case should be computed in accordance with *Lubrica v. Land Bank*.<sup>[46]</sup> The partial payment of P1,845,999.71 should be deducted from the computation.

WHEREFORE, we AFFIRM with MODIFICATION the assailed Decision dated 30 March 2005 of the Court of Appeals in CA-G.R. SP No. 85510 and the Resolution dated 9 June 2005 denying the Motion for Reconsideration. We ORDER the Regional Trial Court of Guimba, Nueva Ecija, Branch 33, acting as Special Agrarian Court, to proceed with deliberate dispatch on the computation of the final valuation of the subject land in accordance with this Decision.

**SO ORDERED.**

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

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[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Monina Arevalo-Zeñarosa with Associate Justices Remedios A. Salazar-Fernando and Rosmari D. Carandang, concurring.

[3] Penned by RTC Judge Ismael P. Casabar.

[4] “Decreeing the Emancipation of Tenant’s From the Bondage of the Soil, Transferring to Them the Ownership of the Land They Till and Providing the Instruments and Mechanism Therefor.”

[5] “Declaring Full Land Ownership to Qualified Farmer Beneficiaries Covered by Presidential Decree No. 27; Determining the Value of Remaining Unvalued Rice and Corn Lands Subject to P.D. No. 27; and Providing for the Manner of Payment by the Farmer Beneficiary and Mode of Compensation to the Landowner.”

[6] Died on 30 September 2007 and substituted in this case by his heirs namely Ma. Ala F. Domingo and Margarita Irene F. Domingo (Manifestation dated 11 December 2007).

[7] Rollo, pp. 67 and 112.

[8] Id. at 36.

[9] Id. at 233.

[10] Records, p. 44.

[11] Rollo, p. 68.

[12] Id. at 71.

[13] Id. at 68-69.

[14] Id. at 112

The computation for just compensation as reflected in the Claims Processing Form prepared by LBP:

Just Compensation = 262.2346 hectares x P7,999.24

= **P2,097,677.50**

= **P2,086,735.09**

[15] EO 228, Sec. 2.

“Henceforth, the valuation of rice and corn lands covered by P.D. No. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, Series of 1973, and related issuances and regulations of the Department of Agrarian Reform. The average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty Five Pesos (P35.00), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.”

[16] “Rules and Regulations Governing the Grant of Increment of Six Percent (6%) Yearly Interest Compounded Annually on Lands Covered by P.D. No. 27 and E.O. No. 228.”

[17] Rollo, pp. 111-115.

[18] “An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its Implementation, and For Other Purposes.”

[19] Rollo, p. 123.

[20] Id. at 126-128.

[21] Records, p. 45.

As certified by the Provincial Manager of the National Food Authority in Nueva Ecija, the pertinent GSP for a cavan of palay were as follows:

11 June 1985

**P175**

OMF #04 dated 11 June 1985

04 Oct. 1989

**P225**

AOJ-004 dated 4 Oct. 1989

01 Nov. 1989

**P250**

AOK-012 dated 10 Nov. 1989

01 Oct. 1990

**P300**

AOI-050 dated 28 Sept. 1990

01 Feb. 1996

**P400**

Memo '96 No. AO-96-04-009 dated 2 April 1996.

01 Feb. '99–31 Aug. '99

**P500**

AO-99-01-043 dated 26 Jan. 1999

01 Sept. '99-Feb. 2000

**P450**

AO-99-01-043 dated 26 Jan. 1999

01 Mar. '00- 31 Aug. '00

**P500**

AO-99-01-043 dated 26 Jan. 1999

01 Sept. '00- Feb. 2001

**P450**

AO-99-01-043 dated 26 Jan. 1999

[22] Id. at 44. The AGP used by the trial court is for a landholding covered by TCT No. 97155. TCT No. 97155 is not among the titles covered by the subject land of this case.

[23] There is a mathematical error in the trial court's computation. The product of  $91.42 \times 2.5 \times 300 \times 43.5805$  is P2,988,096.9825.

[24] The sum should be P15,918,050.91.

[25] CA rollo, p. 47.

[26] RA 6657, Sec. 4.

[27] Rollo, p. 18.

[28] Id. at 170-171.

[29] *Pagtalunan v. Tamayo*, G.R. No. 54281, 19 March 1990, 183 SCRA 252, 258.

[30] RA 6657, Sec. 2.

[31] Both Series of 1987.

[32] 416 Phil. 473, 489 (2001).

[33] 378 Phil. 1248, 1261 (1999).

[34] Republic v. Court of Appeals, G.R. No. 147245, 31 March 2005, 454 SCRA 516, 534.

[35] JOAQUIN BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY, p. 1071.

[36] 319 Phil. 246, 249 (1995).

[37] G.R. No. 127198, 16 May 2005, 458 SCRA 441, 452.

[38] Id. at 451-452.

[39] G.R. No. 78742, 14 July 1989, 175 SCRA 343, 389.

[40] Supra at 390.

[41] Supra note 29, at 259.

[42] Supra.

[43] Supra note 37, at 452-453.

[44] G.R. No. 166777, 10 July 2007, 527 SCRA 181, 188-189.

[45] G.R. No. 170220, 20 November 2006, 507 SCRA 415, 424-425.

[46] Id.

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