

LAND BANK OF THE PHILLIPINES, PETITIONER, VS. CAROLINA B. VDA. DE ABELLO AND HEIRS OF ELISEO ABELLO, NAMELY: NENITA, SULITA, ROLANDO, IMELDA AND ELISEO, JR., ALL SURNAMED ABELLO...

G.R. No. 168631. April 07, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari, under Rule 45 of the Rules of Court, seeking to annul and set aside the Decision[1] dated February 28, 2005, and Resolution[2] dated June 27, 2005, of the Court of Appeals (CA) in CA-G.R. SP No. 85091.

The antecedents are as follows:

Respondent Carolina Vda. de Abello (Carolina) is the widow of the late Eliseo Abello, while the rest of the respondents are their children. Respondents are the owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. NT-55863, containing an area of 12.1924 hectares, situated at Brgy. Sto. Niño 3[rd], San Jose City.[3]

In a letter[4] dated March 6, 2000 addressed to a certain Dalmacio Regino, thru Eliseo Abello, the Land Valuation and Landowner's Compensation Office III of the Land Bank of the Philippines (LBP) informed the respondents that 10.3476 hectares of the their property have been placed under the government's Operation Land Transfer[5] and that the assessed compensation for the land's expropriation was P146,938.54.

Using the guidelines for just compensation embodied in Presidential Decree No. 27[6] (PD 27) and implemented in Executive Order No. 228[7] (EO 228), and taking into consideration the Government Support Price (GSP) for one cavan of 50 kilos palay in October 21, 1972 which was P35.00,[8] the Department of Agrarian Reform (DAR) and the LBP computed the value of the 10.3476 hectare land at P40,743.66.[9] Based on DAR Administrative Order No. 13 (DAR AO 13),[10] series of 1994, a 6% increment in the amount of P106,194.88 was added to the original valuation.[11] Thus, the formula they used to compute the value of the property was:

Land value

=

Average Gross Production (AGP) x 2.5 Government Support Price (GSP)

Or

=

45 x 2.5 x 35

=

P3,937.5 x 10.3476 hectare

=

P40,743.66 + P106,198.88 Increment
per CAR AO 13, S. 1994

=

P 146,938.54

Claim No. 03-EO-94-0573 reflects that the proceeds of the claim amounts as follows:

Original

Increment per
DAR AO 13, S. 1994

Total

Cash P

4,074.37

10,619.48

14,693.85

Bond

36,669.29

95,575.40

132,244.69

Total

40,743.66

106,194.88

146,938.54[12]

In a letter[13] dated June 6, 2000, Carolina informed LBP that she is the owner of the said parcel of land and not Dalmacio Regino. Further, she stated that the prevailing market value of an agricultural land at Sto. Niño 3[rd], San Jose City at that time was P300,000.00 to P400,000.00 per hectare. She pegged the value of the subject property at P350,000.00 per hectare or a total of P4,267,340.00, which should be paid to her and the other heirs of Eliseo Abello.[14]

Subsequently, respondents filed a Petition for Just Compensation[15] before the Special Agrarian Court (SAC),

Regional Trial Court, Branch 33, Guimba, Nueva Ecija, which petition was later docketed as Special Agrarian Case No. 1193-G.

Respondents alleged that they are the owners of an agricultural land covered by TCT No. NT-55863 consisting of 12.1924 hectares situated at Barangay Sto. Niño 3[rd], San Jose City, their ownership being evidenced by a deed of absolute sale executed in favor of the spouses Eliseo Abello and Carolina Abello by the registered owner, Eleuteria Vda. de Ignacio; that 10.3476 hectares of the aforesaid land was placed under Operation Land Transfer by the government; that the defendant LBP fixed the value of their land at P145,938.54; that their land yields an average harvest of 120 cavans of palay per hectare per cropping; that the prevailing purchase price per hectare in the area ranges from P300,000.00 to P400,000.00 per hectare; and that the petitioners are willing to sell aforesaid landholding for P350,000.00 per hectare.[16] Ultimately, they prayed, among other things, that the just compensation for the subject property be fixed in the amount of not less than P4,267,340.00.

On July 26, 2002, LBP filed its Answer.[17] Among other things, LBP alleged that the said landholding was under Operation Land Transfer by the DAR, and was valued in accordance with PD 27 and EO 228; that it was endorsed to the LBP for payment in November 1994; that LBP reviewed the claim and found the same in order; that the subject landholding was valued at P40,743.66 for the 10.3426 hectares covered; that the average gross production (AGP) was determined to be 45 cavans per hectare; that the government support price in 1972 per cavan of palay was P35.00, the price obtaining at that time; that in addition to the amount of P40,743.66, DAR AO 13 provides for an incremental increase of 6% compounded annually, hence, the total compensation due the landowner is P146,938.54.[18] LBP prayed that the said valuation be adopted by the SAC or that it be judicially determined in accordance with law and jurisprudence.

Thereafter, the SAC appointed commissioners to assist it in examining, investigating, and ascertaining the facts relevant to the dispute, including the valuation of the subject landholding. The team was headed by Officer-in-Charge, Branch Clerk of Court, Mr. Arsenio S. Esguerra, Jr. (Esguerra), with Mr. Gil Alvarez and Mr. Willy Wong as members.

On January 30, 2003, Commissioner Esguerra submitted a Consolidated Commissioner's Report[19] detailing their findings. Based on their ocular inspection, the land is situated four kilometers from the town proper and accessible by a feeder road. The topography is generally flat and there are water pumps installed. He recommended that the compensation for the subject land should be pegged at P200,000.00 per hectare. It reads:

X X X X

The landholdings of the plaintiff has an aggregate area of 10.3476 hectares situated at Barangay Sto. Niño 3[rd], San Jose City.

The landholding is classified as riceland. It is four (4) kilometers away from the city proper of San Jose City and traversed by a feeder road. It is accessible to all kinds of transportation. It is along the San Jose City-Lupao, Nueva Ecija provincial highway. The topography is generally flat and there is a creek (Linamuyak Creek) near the landholdings where farmer-beneficiaries can derive water. There are also water pumps installed, hence, the landholding is artificially irrigated. There is electricity in the site. The average gross harvest ranges from 100 to 110 cavans per hectare.

Based from the foregoing considerations, the undersigned believes that the compensation of plaintiff's landholdings with an aggregate area of 10.3476 hectares is P200,000.00 per hectare.

On April 12, 2004, the SAC rendered a Decision[20] adopting the recommendation of its appointed commissioners which fixed the just compensation for the subject property at P200,000.00 per hectare. The decretal portion of which reads:

WHEREFORE, judgment is hereby rendered:

- Fixing the just compensation for plaintiffs' 10.342 hectare land at P200,000 per hectare or a total of P2,068,520.00
- Ordering the defendant Land Bank of the Philippines to pay the above amount to the plaintiffs.

SO ORDERED.[21]

Both the LBP and the DAR filed separate motions for reconsideration which was denied in the Order[22] dated July 5, 2004.

Pursuant to Section 60 of RA 6657, LBP sought recourse before the CA in CA-G.R. SP No. 85091, arguing that:

A. THE COURT A QUO ERRED IN FIXING THE JUST COMPENSATION OF THE COVERED AREA OF 10.3476 HECTARES AT P200,000.00 PER HECTARE BY NOT FOLLOWING THE APPROPRIATE LAND VALUATION FORMULA PRESCRIBED UNDER PD 27 AND EO NO. 288.

B. THE COURT A QUO ERRED IN APPLYING THE VALUATION FACTORS UNDER R.A. 6657 TO SUBJECT LANDHOLDING ACQUIRED UNDER P.D. 27.[23]

On February 28, 2005, the CA rendered a Decision[24] denying the petition, the dispositive portion of which reads:

WHEREFORE, finding no reversible error from the order abovementioned, the petition is hereby DENIED and the decision of the Regional Trial Court[,] Branch No. 33 of Guimba, Nueva Ecija in Agrarian Case No. 1193-G is AFFIRMED in all respect.

SO ORDERED.[25]

The CA opined that the SAC made no mistake when it ruled that the provisions of RA 6657 is controlling and that the provisions of PD 27 and EO 228 shall apply only in suppletory character to RA 6657.[26]

LBC filed a motion for reconsideration, but it was denied in the Resolution[27] dated June 27, 2005.

Hence, this present petition.

The core issue submitted by LBP to be resolved in the present case is:

WHETHER OR NOT THE SPECIAL AGRARIAN COURT CAN DISREGARD THE FORMULA PRESCRIBED UNDER

P.D. NO. 27 AND E.O. 228 IN FIXING THE JUST COMPENSATION OF P.D. 27-COVERED LAND.[28]

LBP maintains that the formula under PD 27 and EO 228, coupled with the grant of compounded interest pursuant to DAR AO 13, is sufficient to arrive at a just compensation for the subject property. Moreover, LBP insists that it is the value of the property at the time of taking -- not at the time of payment -- that is controlling.[29]

To buttress its claim, LBP argues that the property was legally taken by the government upon the effectivity of PD 27 or on October 21, 1972, and it is such date that ownership over the subject land was deemed transferred from the landowner to the farmer-beneficiaries. When EO 228 fixed the basis in determining the value of the land using the government support price (GSP) for one cavan of 50 kilos of palay on October 21, 1972 at P35.00, it was in cognizance of the rule that just compensation is the value of the property at the time of the taking. As such, PD 27 and EO 228 should be the basis in computing the value of the land because respondents were effectively deprived not only of possession, but also of dominion over the subject property on October 21, 1972.[30]

The petition is bereft of merit.

As the opening paragraph of PD 27 explains, the statute was issued in order to address the then prevailing violent conflict and social tension brought about by the iniquitous landownership by a few. It is within this context that former President Ferdinand Marcos deemed it proper to declare the emancipation of all tenant-farmers effective October 21, 1972.[31] Thereafter, EO 228 declared full land ownership to all qualified farmer- beneficiaries as of October 21, 1972 and gave the formula for land valuation.

On June 15, 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." [32]

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[33] 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[34] of RA 6657 expressly states that the provisions of PD 27 and EO 228 and 229, and other laws not inconsistent with RA 6657, shall have suppletory effect.

In *Office of the President, Malacañang, Manila v. Court of Appeals*, [35] this Court 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. LBP's contention that the subject 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, is consequently flawed.

In *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, [36] 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.

In *Land Bank of the Philippines v. Natividad*, [37] the Court held that the determination of just compensation should be in accordance with RA 6657, and not PD 27 and EO 228, thus:

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."

Under the factual circumstances of the case, the agrarian reform process is still incomplete as the just compensation to be paid respondents has yet to be settled. Considering the passage RA 6657 before the completion of this process, the just compensation should be determined and the process concluded under the said law.[38] Indeed, this Court has time and again upheld the applicability of RA 6657, with PD 27 and EO 228 having only suppletory effect, conformably with our ruling in *Paris v. Alfeche*. [39]

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 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.

To be sure, just compensation should be determined in accordance with RA6657, and not PD 27 or EO 228. This 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.[40]

The determination of the proper valuation of the land upon any other basis would not only be unjust, it is bordering on absurdity. For years, respondents have been deprived of the use and enjoyment of their landholding, yet to date, they have not received just compensation therefor. Although the purpose of PD 27 was the emancipation of tenants from the bondage of the soil and transferring to them the ownership of the land they till, such noble purpose should not trample on the landowners' right to be fairly and justly compensated for the value of their property.

In sum, the SAC and the CA committed no reversible error when it ruled that it is the provisions of RA 6657 that is applicable to the present case. The SAC arrived at the just compensation for respondents' property after taking into consideration the commissioners' report on the nature of the subject landholding, its proximity from the city proper, its use, average gross production, and the prevailing value of the lands in the vicinity. This Court is convinced that the SAC correctly determined the amount of just compensation due to respondents in accordance with, and guided by, RA 6657 and existing jurisprudence.

WHEREFORE, the petition is DENIED. The Decision dated February 28, 2005 and Resolution dated June 27, 2005 of the Court of Appeals, in CA-G.R. SP No. 85091, are AFFIRMED. Costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio Morales, Chico-Nazario and Nachura, JJ.,concur.

[*] Per Special Order No. 602 dated March 20, 2009.

[1] Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Noel G. Tijam and Arturo D. Brion (now a member of this Court), concurring, rollo, pp. 45-51.

[2] Id. at 54-55.

[3] Id. at 148-150.

[4] CA rollo, p. 93.

[5] Rollo, p. 149.

[6] 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.

[7] 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.

[8] 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.

[9] CA rollo, p. 93; rollo, pp. 186-192.

[10] 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.

[11] CA rollo, p. 93.

[12] Id.

[13] Rollo, pp. 177-179.

[14] Id. at 178-179.

[15] Id. at 146- 154.

[16] Id. at 148-152.

[17] Id. at 183-185.

[18] Id. at 183-184.

[19] Records, pp. 111-112.

[20] Rollo, pp. 127-131.

[21] Id. at 131.

[22] Records, p. 275.

[23] Rollo, p. 109.

[24] Id. at 45-51.

[25] Id. at 50.

[26] Id. at 48-59.

[27] Id. at 54-55.

[28] Id. at 31.

[29] Id. at 35-38.

[30] Id. at 34.

[31] *Coruña v. Cinamin*, G.R. No. 154286, February 28, 2006, 483 SCRA 507, 519.

[32] RA 6657, Sec 2.

[33] SEC. 7. Priorities – The DAR, in coordination with the PARC shall plan and program the acquisition and distribution of all agricultural lands through a period of ten (10) years from the effectivity of this Act. Lands shall be acquired and distributed as follows:

Phase One: Rice and Corn lands under Presidential Decree No. 27; all idle or abandoned lands; all private lands voluntarily offered by the owners for agrarian reform; all lands foreclosed by government financial institutions; all lands acquired by the Presidential Commission on Good Government (PCGG); and all other lands owned by the government devoted to or suitable for agriculture, which shall be acquired and distributed immediately upon the effectivity of this Act, with the implementation to be completed within a period of not more than four (4) years;

[34] SEC. 75. Suppletory Application of Existing Legislation. -- The provisions of Republic Act Number 3844 as amended, Presidential Decree Number 27 and 266 as amended, Executive Order Number 228 and 229, both Series of 1987; and other laws not inconsistent with this Act shall have suppletory effect.

[35] 413 Phil. 711 (2001).

[36] G.R. No. 78742, July 14, 1989, 175 SCRA 343, 390.

[37] G.R. No. 127198, May 16, 2005, 458 SCRA 441, 452-453.

[38] Land Bank of the Philippines v. Heirs of Angel T. Domingo, G.R. No. 168553, February 4, 2008, 543 SCRA 627, 639.

[39] 416 Phil. 473 (2001), citing Land Bank of the Philippines v. Court of Appeals, 321 SCRA 629 (1999).

[40] Supra note 37, at 452.

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