

CAPITOL STEEL CORPORATION, PETITIONER, VS. PHIVIDEC INDUSTRIAL AUTHORITY, RESPONDENT.

G.R. NO. 169453. December 06, 2006

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-169453/>

CARPIO MORALES, J.:

Capitol Steel Corporation (Capitol Steel) challenges the Court of Appeals Decision[1] of February 7, 2005 in CA-G.R. SP No. 84067 as well as its Resolution[2] dated August 24, 2005 ordering the Presiding Judge of Branch 20, Regional Trial Court (RTC) of Misamis Oriental to issue a writ of possession in favor of Phividec Industrial Authority (PHIVIDEC).

Petitioner, Capitol Steel, is a domestic corporation which owns 65 parcels of land[3] with a total land area of 337,733 square meters (the properties) located in the barrios of Sugbongcogon and Casinglot, Municipality of Tagoloan, Province of Misamis Oriental.

Respondent, PHIVIDEC, is a government-owned and controlled corporation organized and existing under Presidential Decree No. 538,[4] as amended, which is vested with governmental and proprietary functions[5] including the power of eminent domain for the purpose of acquiring rights of way or any property for the establishment or expansion of the Phividec Industrial Areas.[6]

The properties of Capitol Steel were identified as the most ideal site for the Mindanao International Container Terminal Project (MICTP), a PHIVIDEC project which involves the phased production of an 800-meter berth and the acquisition of port equipment[7] to handle the volume of seaborne break-bulk and container traffic in Mindanao.[8]

On August 24, 1999, PHIVIDEC filed an expropriation case before the RTC of Misamis Oriental,[9] docketed as Civil Case No. 99-477, and raffled to Branch 38 thereof.

On September 1, 1999, Branch 38 of the Misamis Oriental RTC issued a writ of possession in favor of PHIVIDEC.[10] Due, however, to the unauthorized engagement by PHIVIDEC of the legal services of a private lawyer, the expropriation case was dismissed, without prejudice to the filing of a similar petition through a proper legal officer or counsel.[11]

In the meantime, Capitol Steel requested the Technical Committee on Real Property Valuation (TCRPV) of the Bureau of Internal Revenue (BIR), by letter of March 27, 2001, for a revaluation of its properties. The TCRPV thereafter issued Resolution No. 36-2001[12] (TCRPV Resolution) dated December 11, 2001 fixing the "reasonable and realistic zonal valuation" of the properties at P700 per square meter.

This Court in "Phividec Industrial Authority v. Capitol Steel Corporation,"[13] annulled the entire proceedings in Civil Case No. 99-477, by Decision of October 23, 2003.

By letter[14] of November 21, 2003, PHIVIDEC informed Capitol Steel that it would file anew an expropriation

case and that it had deposited the amount of P116,563,500 in the name of Capitol Steel, P51,818,641 of which was deposited at the Landbank of the Philippines (Landbank) and P64,744,859 at the Development Bank of the Philippines (DBP). PHIVIDEDEC further informed Capitol Steel that the total amount deposited represents the zonal value of the properties, and may be withdrawn at any time.

Subsequently, PHIVIDEDEC, represented by the Government Corporate Counsel, re-filed on November 24, 2003 an expropriation case, docketed as Civil Case No. 2003-346, and raffled to Branch 20 of RTC of Misamis Oriental.

And on December 8, 2003, PHIVIDEDEC filed an Urgent Motion for the Issuance of a Writ of Possession[15] to which it attached a Certificate of Availability of Funds,[16] and Certifications from the Landbank[17] and the DBP[18] that it deposited the total amount of P116,563,500 required under Republic Act No. 8974 (R.A. 8974), "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES."

The total amount deposited represents one hundred percent (100%) of the value of the properties based on the schedule of zonal valuation for real properties under Department Order No. 40-97[19] (D.O. 40-97) fixing the zonal valuation of the properties at Sugbongcogon and Casinglot at P300 and P500 per square meter, respectively.

Capitol Steel opposed the application of D.O. 40-97, claiming instead that under the TCRPV Resolution, the properties have been revalued at P700 per square meter.[20]

By Order[21] of February 3, 2004, the trial court denied PHIVIDEDEC's Motion for the Issuance of a Writ of Possession, noting that the amount deposited was "seemingly inadequate"[22] and was made simply out of PHIVIDEDEC's "interpretation of the prevailing zonal valuation and was not mutually agreed"[23] upon.

In view of the conflicting zonal valuations, the trial court found it necessary to first make a "judicial interpretation" to determine the prevailing market value of the properties on the basis of the zonal valuation through a full-blown trial where the parties would be afforded the opportunity to present their respective evidence.[24]

PHIVIDEDEC thus presented the Assistant Revenue District Officer of Revenue District 98 of the BIR in Cagayan de Oro City, Bernadette H. Honculada (Bernadette). Bernadette testified that barangays Sugbongcogon and Casinglot in Tagoloan are within the jurisdiction of Revenue District 98[25] and that under D.O. 40-97, the zonal valuations of the properties are P300 and P500 per square meter, respectively.[26]

Bernadette further testified that her office continues to use the zonal valuations provided in D.O. No. 40-97 in computing internal revenue taxes.[27]

For its part, Capitol Steel presented a representative of the Philippine Association of Realty Appraisers to the TCRPV, Victor T. Salinas (Salinas), who testified that TCRPV is authorized under Revenue Delegation of Authority Order No. 4-2001 to conduct reappraisals of the zonal valuation of properties on a "case to case level"[28] upon the request of any taxpayer.[29]

Salinas further testified that he was sent together with a representative from the Bureau of Local Government Finance to inspect the properties, and to prepare a report and submit the same to the TCRPV for deliberation;[30] that after deliberation, the TCRPV issued a resolution fixing the zonal valuation of the properties at P700 per square meter, which was thereafter approved by the Chairman of the TCRPV, Nora Tamayo, who then transmitted the resolution to the parties concerned – the Revenue District Officer and the "taxpayer who requested for the adjustment" or Capitol Steel.[31]

Salinas furthermore testified that the valuation was arrived at after comparing the "values of same features of

some of the lands in the area and also the neighboring cities like Cagayan de Oro City" and that TCRPV "ma[d]e use of the report[s] of the two independent appraisers" and also "the valuation [of] the Assessor's Office." [32]

By Order [33] of April 15, 2004, the RTC denied PHIVIDEDEC's motion for reconsideration [34] of its February 3, 2004 Order denying its Motion for the Issuance of a Writ of Possession, it sustaining the TCRPV's fair market valuation of the properties at P700 per square meter, and accordingly ordering PHIVIDEDEC to "immediately deposit the total amount" to call for the issuance of the writ.

It is the finding of this Court that indubitably the Technical Committee on Real Property Valuation (TCRPV), is the body tasked to fix the valuation of the property sought to be appropriated and, hence, there is no sustainable evidence to merit the reconsideration of the Court's order dated February 4, 2004, the motion thereof is hereby denied and taking into account the preponderance of evidence proffered by defendant in arriving at the prevailing zonal valuation based in the evidence adduced, this Court hereby sustains the fair market value of defendant's property at Seven hundred (P700.00) Pesos per square meter, thereby plaintiff is ordered to immediately deposit the total amount in defendant's name for this Court to issue the writ of possession as mandated by Republic Act 8974. [35]

Claiming that the RTC acted without or in excess of jurisdiction and with grave abuse of discretion in issuing its Orders dated February 3, 2004 and April 24, 2004, PHIVIDEDEC filed before the appellate court a petition for certiorari with a prayer for the issuance of a writ of preliminary mandatory injunction. [36]

The appellate court, by Decision [37] of February 7, 2005, holding that the zonal valuation established under D.O. 40-97 should be the basis in computing the provisional value of the properties, and that the valuation made by the TCRPV was neither binding nor effective for failure to comply with the guidelines relative to the establishment of zonal values of real properties under Revenue Memorandum Order No. 56-89, [38] as amended by Revenue Memorandum Order No. 56-94, [39] granted PHIVIDEDEC's petition and accordingly directed the RTC to issue a writ of possession in favor of PHIVIDEDEC.

Capitol Steel filed a motion for reconsideration of the appellate court's February 7, 2005 decision, claiming that Revenue Memorandum Order No. 56-89, as amended by Revenue Memorandum Order No. 56-94, applies only when all the properties in a province or a city are revalued, not when the properties of a single taxpayer [40] are revalued.

Acting on Capitol Steel's motion for reconsideration, [41] the appellate court conducted a hearing following which it ordered the parties to submit their respective memoranda and position papers.

In the meantime, the RTC, by Order [42] of June 6, 2005, granted the supplemental motion for execution of Capitol Steel and allowed it to withdraw from the Landbank and the DBP the total amount of P116,563,500.

The appellate court eventually denied Capitol Steel's motion for reconsideration of its Decision of February 7, 2005, by Resolution [43] of August 24, 2005.

Capitol Steel (petitioner) now comes before this Court on a petition for review, positing the following arguments:

- THE PETITION FOR CERTIORARI [BEFORE THE COURT OF APPEALS] SHOULD BE DISMISSED OUTRIGHT BECAUSE IT IS FATALLY DEFECTIVE FOR SUPPRESSION OF NECESSARY AND RELEVANT DOCUMENTS.
- THE ORDERS OF FEBRUARY 3, 2004 AND APRIL 15, 2004 OF THE REGIONAL TRIAL COURT OF MISAMIS ORIENTAL CANNOT BE THE SUBJECT OF A PETITION FOR CERTIORARI.
- THE REGIONAL TRIAL COURT OF MISAMIS ORIENTAL CORRECTLY USED THE ZONAL VALUATION OF THE PROPERTIES SOUGHT TO BE EXPROPRIATED MADE IN 2001 AS BASIS FOR

THE ISSUANCE OF A WRIT OF POSSESSION.[44] (Underscoring supplied)

Respondent's failure to attach to its petition before the appellate court these documents, to wit: the Urgent Motion for the Issuance of the Writ of Possession, the Opposition thereto, the Reply, the Rejoinder, the transcript of the testimony of Salinas and the documents-exhibits of petitioner did not suffice to merit the dismissal of the petition.

As the appellate court found, respondent's omission did not detract from the substantial completeness of its petition. Neither, held the appellate court, did it deprive its authority to hear and decide the petition.

Additionally, petitioner failed to show that it was prejudiced in any way by respondent's failure to append the said documents.

Petitioner contends that the trial court's determination of the provisional value of the properties, having been arrived at after a hearing and evaluation of the parties' evidence, cannot, being factual, be assailed in a petition for certiorari before the appellate court.[45]

Petitioner's contention fails.

While the correctness of the RTC's determination of the zonal valuation was assailed by respondent before the appellate court, the same was merely appurtenant to the principal issue of whether the RTC has the authority, for purposes of denying or granting a writ of possession, to vary the zonal valuation of the properties as established by the BIR[46] under D.O. 40-97.

On the main issue raised – whether the appellate court erred in ordering the RTC to issue a writ of possession in favor of respondent:

Significantly, after a writ of possession was issued in favor of respondent on September 1, 1999 in the first expropriation case-Civil Case No. 99-477, respondent commenced the construction of infrastructure buildings and container port terminals. Possession of the properties has since remained with respondent, with the MICTP now complete and fully operational.[47]

When the second expropriation case was re-filed, R.A. 8974, which provides for substantive requirements before a writ of possession is issued, was already in force and in effect.

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 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 proffered 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 proffered 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. (Emphasis and underscoring supplied)

Under R.A. 8974, the requirements for authorizing immediate entry in expropriation proceedings involving real property are: (1) the filing of a complaint for expropriation sufficient in form and substance; (2) due notice to the defendant; (3) payment of an amount equivalent to 100% of the value of the property based on the current relevant zonal valuation of the BIR including payment of the value of the improvements and/or structures if any, or if no such valuation is available and in cases of utmost urgency, the payment of the proffered value of the property to be seized; and (4) presentation to the court of a certificate of availability of funds from the proper officials.

Upon compliance with the requirements, a petitioner in an expropriation case, in this case respondent, is entitled to a writ of possession as a matter of right and it becomes the ministerial duty of the trial court to forthwith issue the writ of possession. No hearing is required^[48] and the court neither exercises its discretion or judgment in determining the amount of the provisional value of the properties to be expropriated as the legislature has fixed the amount under Section 4 of R.A. 8974.

To clarify, the payment of the provisional value as a prerequisite to the issuance of a writ of possession differs from the payment of just compensation for the expropriated property. While the provisional value is based on the current relevant zonal valuation, just compensation is based on the prevailing fair market value of the property. As the appellate court explained:

The first refers to the preliminary or provisional determination of the value of the property. It serves a double-purpose of pre-payment if the property is fully expropriated, and of an indemnity for damages if the proceedings are dismissed. It is not a final determination of just compensation and may not necessarily be equivalent to the prevailing fair market value of the property. Of course, it may be a factor to be considered in the determination of just compensation.

Just compensation, on the other hand, is the final determination of the fair market value of the property. It has been described as "the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of the expropriation." Market values, has also been described in a variety of ways as the "price fixed by the buyer and seller in the open market in the usual and ordinary course of legal trade and competition; the price and value of the article established as shown by sale, public or private, in the ordinary way of business; the fair value of the property between one who desires to purchase and one who desires to sell; the current price; the general or ordinary price for which property may be sold in that locality."^[49] (Emphasis and underscoring supplied)

There is no need for the determination with reasonable certainty of the final amount of just compensation before the writ of possession may be issued.^[50] The trial court, however, failed to distinguish the "provisional value of the property" from "just compensation" when it ruled, viz:

The Court is of the sound observation that the propriety of the granting of the writ of possession will greatly depend on the just compensation mandated by Republic Act No. 8974, hence, it will follow that any deposit to be made therein, in compliance with said law, should be the prevailing fair market value on the basis of the zonal valuation within the locality and virtually agreed upon by both parties. This Court, therefore, opted to

rule and so holds that considering the conflicting zonal valuation, a judicial interpretation must first be held to determine the prevailing market value on the basis of the zonal valuation approved by the government agency tasked to fix the same.[51] (Underscoring supplied)

Petitioner insists that the RTC was correct in ruling that the P700 per square meter valuation should be used in computing the provisional value of the property as the valuation under D.O. 40-97 has been "effectively superseded" by the TCRPV Resolution.

Petitioner's proposition fails.

The "current relevant zonal valuation" under Section 4 of R.A. 8974 pertains to the values reflected in the schedule of zonal values embodied in a Department Order issued pursuant to Revenue Memorandum Order (RMO) No. 56-89 issued by the Commissioner of Internal Revenue.[52]

RMO 56-89 provides for the procedures for the establishment of the zonal values of real properties, viz:

- (1) The submission or review by the Revenue District Offices Sub-Technical Committee of the schedule of recommended zonal values to the TCRPV;
- (2) The evaluation by TCRPV of the submitted schedule of recommended zonal values of real properties;
- (3) Except in cases of correction or adjustment, the TCRPV finalizes the schedule and submits the same to the Executive Committee on Real Property Valuation (ECRPV);
- (4) Upon approval of the schedule of zonal values by the ECRPV, the same is embodied in a Department Order for implementation and signed by the Secretary of Finance. Thereafter, the schedule takes effect (15) days after its publication in the Official Gazette[53] or in any newspaper of general circulation.

This Court finds that the determination of P300 and P500 per square meter zonal values were, along with the zonal values of other real properties located in all municipalities under the jurisdiction of Revenue District Office No. 98 (Cagayan de Oro City), Revenue Region No. 16 (Cagayan de Oro City), the subject of a public hearing on February 5, 1996. On March 19, 1997, the zonal values were approved by both the TCRPV and the ECRPV and on even date, the Secretary of Finance, upon the recommendation of the BIR, issued D.O. 40-97 to implement the schedule of zonal values. D.O. 40-97 thereafter took effect on October 21, 1997, 15 days after its publication in The Philippine Journal.

In contrast, the P700 per square meter zonal value provided for under TCRPV Resolution was not approved by the ECRPV, was not embodied in a Department Order, and did not undergo the required public hearing and publication required under RMO 56-89.

As reflected in the TCRP Resolution, the revaluation was based on a letter-request dated March 27, 2001 of Berck Y. Cheng, Executive Assistant of Capitol Steel. While the resolution took into account the investigation, analysis and evaluation conducted by the two private appraisers hired by Capitol Steel, the Saromo Realty and Valueworld Appraisers, Inc.,[54] PHIVIDEA, as the implementing expropriating agency, was not notified[55] and afforded the opportunity to participate in the revaluation.

The revaluation under the TCRPV Resolution having failed to comply with the requirements under RMO 12-89, the disregard by the RTC of the zonal valuation under D.O. 40-97 is impermissible. Petitioner's argument that TCRPV Resolution effectively superseded D.O. 40-97 does not thus impress.

The TCRPV was created under Ministry Order No. 20-86 for the purpose of assisting the Commissioner of Internal Revenue in prescribing real property values for purposes of computing any internal revenue tax. Ministry Order No. 20-86 was later amended by Department Order 12-89 (D.O. 12-89) providing for the composition of

the TCRPV, with the Assistant Commissioner of the Assessment Service of the BIR as Chairman.[56] Under D.O. 12-89, the task of TCRPV and the Sub-Technical Committees on Real Property Valuation (STCRPV) is limited to the study and preparation of the schedules of zonal values for the purpose of computing internal revenue taxes, viz:

Under the direct supervision of the Commissioner of Internal Revenue, the Committee shall study and prepare zonal schedules of fair market values on real properties to be used as basis for the computation of any internal revenue tax.

All provincial, city and municipal assessors are hereby directed to render assistance to the Committee in the DETERMINATION OF THE REALISTIC VALUATION OF REAL PROPERTIES IN THEIR RESPECTIVE AREAS OF JURISDICTION.[57]

On October 24, 1989, RMO 56-89 was issued to "guide and facilitate the goal/activities of the Sub-Technical Committee on Real Property Valuation (STCRPV) pursuant to Department Order No. 12-89 dated February 27, 1989 relative to the establishment of zonal values of real properties situated within the jurisdiction of Revenue District Offices." [58] Verily, while the TCRPV and the STCRPV are vested with authority to study and prepare the schedule of zonal values, the valuation can only be implemented if it is later embodied in a Department Order and is rendered effective only upon its publication in the Official Gazette as provided under RMO 56-89.

Petitioner nevertheless claims that TCRPV Resolution was issued pursuant to Revenue Delegation Authority No. 4-2001 (RDAO 4-2001), hence, it need not comply with RMO 56-89.

The claim is bereft of merit.

A revaluation pursuant to RDAO 4-2001 cannot be used to determine the provisional value of the properties in view of the specific and limited objectives by which said order was issued. Pertinent portions of RDAO 4-2001 are hereunder reproduced:

SUBJECT : Delegation of Authority to Approve and Sign Resolutions by the Technical Committee on Real Property Valuation Involving Case-to-Case Requests for Revaluation of Established Zonal Values of Real Properties

TO : All Internal Revenue Officers and Employees and Others Concerned

I. OBJECTIVES

- To update the delineation of authority and responsibility of the revenue official who shall approve and sign the resolutions by the Technical Committee on Real Property Valuation (TCRPV) involving case-to-case requests for revaluation of established zonal values of real properties pursuant to Section 7 of the National Internal Revenue Code of 1997; and
- To facilitate action on taxpayers' requests for such revaluation in accordance with Section 6(E) of the Tax Code in order to expedite the issuance of appropriate clearances relative to the covered real property transactions.

II. DELEGATED SIGNING AUTHORITY

The authority to sign the aforementioned TCRPV resolutions is hereby delegated to the Assistant Commissioner, Assessment Service.

x x x x

The specific and limited objective of RDAO 4-2001 is to facilitate action on taxpayers' requests for revaluation in accordance with Section 6(E)[59] of the 1997 National Internal Revenue Code "in order to expedite the issuance

of appropriate clearances relative to the covered real property transactions." For this purpose, the Commissioner of Internal Revenue delegated to the Assistant Commissioner of the Assessment Service the authority to approve and sign TCRPV resolutions issued pursuant to such requests.

The "appropriate clearances" under RDAO 4-2001 refer to the Tax Clearance (TCL) or Certificate Authorizing Registration (CAR), which are issued by the BIR after the taxpayer pays the proper capital gains and documentary stamp taxes.[60]

Admittedly, the revaluation was not sought by petitioner for the purpose of computing any internal revenue taxes in order to secure the appropriate clearances from the BIR, but for the purpose of computing the provisional valuation of the properties sought to be expropriated.[61]

Clearly, while the law grants to the Commissioner of Internal Revenue the power to determine zonal values, including the authority to delegate to the Assistant Commissioner of the Assessment Service the authority to approve and sign TCRPV resolutions involving requests for revaluation of established zonal values of real properties, the same is for the purpose of computing internal revenue taxes.

The revaluation under RDAO 4-2001 is, as correctly held by the appellate court, "a specific rather than a zonal valuation," and is "not a revaluation of the schedule of zonal values [under D.O. 40-97] but merely the fine tuning of the value of a specific property of an individual taxpayer in order to reflect fair market values." [62]

It is the movant's thesis that a concerned property owner may invoke Department order No. 12-89 and Revenue Delegation of Authority Order No. 4-2001 to challenge the current relevant zonal valuation of his property as the basis for preliminary or provisional payment in the proceedings below.

x x x We cannot accept the contention that "revaluation", as understood in Revenue Delegation of Authority Order No. 4-200[1] constitutes a revision of the schedule of zonal values.

First, such a theory raises the possibility that all zonal valuations duly published will be rendered inutile for the intention of merely establishing a preliminary or provisional valuation for purposes of the expropriating agency's entry into the property.

Secondly, movant's thesis will erase the distinction between preliminary payment based on zonal valuation and the final determination by the court of fair market value or just compensation. This We are not prepared to do especially since that distinction lies at the heart of Republic Act No. 8974. We are not prepared to hold that by means of Department Order No. 12-89 or Revenue Delegation of Authority Order No. 4-2001 the property owner can truncate the expropriation process under the Rules and impel the trial court to proceed directly into the issue of the final determination of just compensation. Recourse to these—urges the trial court prematurely to a full-blown trial on the determination of the fair market value which is contrary to the obvious intent of Republic Act No. 8974.

Finally, this theory is rife with mischievous consequences and will place the state or the expropriating agency at the mercy of the property owner. It raises the specter of unwarranted delays in infrastructure and other important projects of the government. For the avowed purpose of Republic Act No. 8974 is precisely to provide the court in expropriation proceedings with a ready reference or standard upon which to base the preliminary or provisional payment to the property owner allowing the said court to proceed with dispatch to the final phase of the proceeding which is the final determination of just compensation.[63]

Moreover, there is nothing under Republic Act No. 8974 which can be read to allow an owner of the properties to be expropriated recourse to a "case to case" revaluation "when it disagrees with the zonal valuation by the BIR." [64] Resort to this procedure would undeniably cause delay in government infrastructure projects, and leave the determination of the provisional value of the expropriated properties to the property owner and the TCRPV,

without the participation from the implementing expropriating agency. Such is contrary to R.A. 8974 which permits, in cases of utmost urgency and importance and when there is no existing valuation of the area concerned, an expedited means by which the government can immediately take possession of the property without having to await precise determination of the valuation, by paying the property owner the implementing government agency's proffered value of the property.[65]

Petitioner finally posits that considering that the properties contain several favorable features which no other lots in the vicinity possess, and that the zonal valuation relied upon by respondent was made way back in 1996, the P700 per square meter valuation made in 2001 is reasonable.

Again, the provisional character of the payment means that it is not final, albeit sufficient under the law to entitle the government to the writ of possession over the expropriated property.[66] For purposes of a writ of possession, there is no need to look into the peculiar and favorable features of the properties to be expropriated, the court is being statutorily bound to rely only on the current relevant zonal valuation of the BIR. Petitioner, however, may in the determination of just compensation, properly present and introduce evidence bearing on the properties' fair market value.[67]

Thus Section 5 of Republic Act No. 8974 provides:

SECTION 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.

In fine, all the requirements set forth under Section 4 of R.A. 8974 have been satisfactorily complied with, there is no legal impediment to the issuance of a writ of possession in favor of respondent.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution dated February 7, 2005 and August 24, 2005 of the Court of Appeals are AFFIRMED.

Costs against petitioner.

SO ORDERED.

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

[1] CA rollo, pp. 181-200. Penned by Associate Justice Romulo V. Borja and concurred by Associate Justices Teresita Dy-Liacco Flores and Arturo G. Tayag.

[2] Id. at 370-381.

[3] Records, Vol. I, pp. 3-26.

[4] Creating and Establishing the Phividec Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Investment Development Corporation Defining its Powers, Functions and Responsibilities, and for Other Purposes.

[5] Section 2 of P.D. 538 reads:

SECTION 2. Creation of the PHIVIDEC Industrial Authority. – To carry out the above policy, a body corporate to be known as the PHIVIDEC Industrial Authority is hereby created. The Authority as hereinafter referred to shall be a subsidiary of the PHILIPPINE VETERANS INVESTMENT DEVELOPMENT CORPORATION created under PD 243, as amended by PD 353. The functions of the Authority are hereby declared governmental and proprietary.

[6] Section 12 of P.D. 538 reads:

SECTION 12. Eminent Domain. – For the acquisition of rights of way, or of any property for the establishment or expansion of the PHIVIDEC Industrial Areas, or for housing projects for the employees working in such Areas, or properties for the establishment and construction of residential and commercial areas as may be necessary for the proper attainment of the objectives of this Decree or for the protection of watershed areas, or properties for the construction of dams, reservoirs, wharves, piers, docks, quays, warehouses and other terminal facilities, structures and approaches thereto, or for the acquisition of any properties for use by the Authority in the necessary course of its affairs, business and the exercise of its powers herein, the Authority shall have the right and power to acquire the same by purchase, by negotiation or by expropriation proceedings. For the maximum industrial development of the Areas, the properties so acquired or expropriated may thereafter be re-sold or leased by the Authority to Area enterprises under such terms and conditions it may impose. Should the Authority elect to exercise the right of eminent domain, expropriation proceedings shall be maintained by and in the name of the Authority and it may proceed in the manner provided for by law.

[7] Records p. 27.

[8] Id. at 26.

[9] Id. at 28.

[10] Id. at 28.

[11] Phividec Industrial Authority v. Capitol Steel Corporation, G.R. No. 155692, October 23, 2003, 414 SCRA 327, 336.

[12] Records, Vol. 1, pp. 145-148.

[13] Supra note 11.

[14] Records, Vol. I, p. 128.

[15] Id. at 133-136.

[16] Id. at 140.

[17] Id. at 138.

[18] Id. at 139.

[19] IMPLEMENTATION OF THE ZONAL VALUES OF REAL PROPERTIES IN ALL MUNICIPALITIES UNDER THE JURISDICTION OF REVENUE DISTRICT OFFICE NO. 98 (CAGAYAN DE ORO CITY), REVENUE REGION NO. 16, (CAGAYAN DE ORO CITY) FOR INTERNAL REVENUE TAX PURPOSES.

[20] Records, Vol. I, pp. 157-158.

[21] Id. at 228-229.

[22] Id. at 229.

[23] Ibid.

[24] Ibid.

[25] TSN, March 10, 2004, p. 18.

[26] Id. at 19.

[27] Id. at 11.

[28] TSN, March 22, 2004, p. 31.

[29] Id. at 21-22.

[30] Id. at 10.

[31] Id. at 12.

[32] Id. at 20-21.

[33] Records, Vol. 1, pp. 396-398.

[34] Id. at 252-262.

[35] Id. at 398.

[36] CA rollo, pp.1-24.

[37] Id. at 181-195.

[38] Procedures in the Establishment of Zonal Values of Real Properties within the Jurisdiction of Revenue District Offices at the Sub-Technical Committee Level.

[39] Amending RMO No. 56-89 regarding procedures in the establishment of zonal values of real properties within the jurisdiction of the Revenue District Offices at the Sub-Technical Committee level.

[40] CA rollo, p. 211.

[41] Id. at 753-796.

[42] Records, Vol. II, pp. 756-757.

[43] CA rollo, pp. 370-381.

[44] Rollo, p. 14.

[45] Id. at 15-17.

[46] CA rollo, p. 373.

[47] Id. at 7.

[48] *City of Iloilo v. Legaspi*, G.R. No. 154614, November 25, 2004, 444 SCRA 269, 283.

[49] CA rollo, pp. 189-190.

[50] *Republic v. Gingoyon*, G.R. No. 166429, February 1, 2006, 481 SCRA 457, 469.

[51] Records, Vol. I, p. 229.

[52] Revenue Memorandum Order No. 56-89, as amended by Revenue Memorandum Order No. 56-94, provides for the guidelines and instructions relative to the establishment of zonal values of real properties within the jurisdiction of the Revenue District Offices, viz:

x x x x

A. General Instructions/Guidelines

- Acquisition of Maps

- a.) A map identifying the zones, barangays, streets and area for priority development (APD) if any, in the areas to be covered by zonal valuation.
- b.) A map specifying the zone classification on land use by the Housing and Land use Regulatory Board (HLURB) or City/Municipal Provincial planning Officer.

- Identification of Boundaries and Main Thoroughfares

- a.) The boundaries of the area of jurisdiction of the Revenue District Office (brief description).
- b.) List of main thoroughfares traversing several zones or barangays.
- c.) Identification of commercial areas, industrial areas, residential areas, etc.

- Preparation of Preliminary Schedule of Recommended Values of Real Properties (Land Only).

- a.) The STCRPV (Sub-Technical Committee on Real Property Valuation) shall prepare the schedule of recommended values of real properties by zones/barangays, streets following the classification of properties (Annex A) and format shown as (Annex B) within 30 days from its initial meeting.
- b.) The recommended values shall be based on –
 - 1.) acceptable methods of appraisal of real properties;
 - 2.) records of most recent actual sales/transfers/exchanges of properties appearing in documents filed in public offices e.g. the Bureau of Internal Revenue (BIR), Land Registration Commission (LRC), etc.
 - 3.) private records of banks realtors, appraisers, etc., in the locality.
 - 4.) records of provincial/City/Municipal Assessor.
 - 5.) other procedures and methods of appraisal.
- c.) The Chairman of the STCRPV shall conduct deliberations with the appraisers and assessors of the locality on the three (3) recommended market values of land. The final recommended value shall be the average of the two (2) highest values.
- d.) The schedule of recommended zonal values shall be signed by the Chairman of the STCRPV and all

members,

e.) The STCRPV shall maintain a record of all the meetings and deliberations made on the preparation of zonal values which shall be forwarded to the Chairman, Technical Committee before its approval.

- Submission/Review of Schedule of Recommended Zonal Values

a.) Submission of records and schedule of zonal values –

1.) Two copies of the schedule of recommended zonal values of real properties signed by the Chairman of the STCRPV and members, as well as the maps and listings required under Item III-A (1) and (2) hereof, and minutes/records of meeting shall be submitted to the Assistant Commissioner, National Assessment Office and Chairman, Technical Committee on Real Property Valuation xxx.

b.) Review and Evaluation –

The TCRPV shall evaluate the submitted schedule of recommended zonal values of real properties. In the absence of any objection/comment, the same shall be finalized and submitted to the Executive Committee for consideration; otherwise, said schedule of values shall be returned to the STCRPV for the necessary correction/adjustment,

B. Public Hearing/Notice to the Public

- A public hearing shall be held with the following in attendance: (a) Revenue Regional Director, (b) Chairman and members of the STCRPV, (c) representatives of the TCRPV, and (d) representatives of the Secretariat of the TCRPV. The public hearing shall be given wide publicity in newspapers of general circulation, radio, and television. The Revenue District Officer concerned shall likewise disseminate the information by preparing notices of the hearing to be posted in strategic places and letters of invitation for local officials, associations of realtors/appraisers and other civil organizations.

- Notice to the Public -

In the municipalities where a public hearing is not feasible, notice to the public regarding the recommended zonal values shall instead be made through the Municipal and Barangay officials thereat, by posting the said proposed zonal values in public places within the municipality for thirty (30) days and/or weekly publication in local newspapers of general circulation for three (3) consecutive weeks. If no comment/objection is received within the said period, the schedule of values shall be forwarded to the TCRPV and ECPPV and ECRPV and to the Secretary of Finance for final approval.

C. Effectivity of Approved Zonal Values

a.) As soon as the Executive Committee accepts the zonal values, a Department Order on the implementation of the said zonal values shall be prepared for the approval and signature of the Secretary of Finance.

b.) Upon issuance of the Department Order approving the schedule of zonal values of real properties, said values shall be published in the Official Gazette or any newspaper of general circulation, and shall take effect after fifteen (15) days following the date of publication.

[53] Commissioner of Internal Revenue v. Aquafresh Seafoods, Inc., C.T.A. CASE NO. 77, November 9, 2005.

[54] Records, Vol. I, pp. 217-218.

[55] Id. at 423.

[56] Under Department Order No.12-89, the following are the members of the TCRPV: (1) Chief, Real Property Assessment Examination Division, Bureau of Local Government Finance; (2) Representative, Housing and Land Use Regulatory Board; (3) Special Assistant to the Deputy Commissioner having jurisdiction over all regional

offices, Bureau of Internal Revenue; (4) Chief, Assessment Performance Control Division, Bureau of Internal Revenue; (5) Two Representatives from the Philippine Association of Real Estate Brokers (PAREB) and the Institute of Philippine Real Estate Appraiser (IPREA);

In addition, Department Order No. 12-89 provides that the "Technical Committee shall have the authority to create Sub-Technical Committees on Real Property Valuation which shall be composed of the Revenue District Offices which shall be composed of the Revenue District Officer as Chairman and the Provincial/City/Municipal Assessor and two (2) competent appraisers representing the private sector, as members."

Ministry Order 20-86 as amended by Department Order No.12-89, has been further amended by Department Order No. 35-04 issued on September 24, 2004, viz:

SUBJECT : AMENDING FURTHER MINISTRY ORDER NOS. 20-86 AND 21-86 AS AMENDED BY DEPARTMENT ORDER NOS. 12-89, 13-89, 10-92 and 11-92 CREATING THE COMMITTEES ON REAL PROPERTY VALUATION TO DETERMINE THE ZONAL VALUES OF REAL PROPERTIES FOR PURPOSES OF COMPUTING ANY INTERNAL REVENUE TAX

Pursuant to Section 6 (E) of Republic Act No. 8424, otherwise known as the "Tax Reform Act of 1997", Ministry Order Nos. 20-86 and 21-86 as amended by Department Order Nos. 12-89, 13-89 10-92 and 11-92, are hereby amended as follows:

x x x x

- Executive Committee on Real Property Valuation (ECRPV) shall be composed of the following:

Chairman ?

Commissioner

Bureau of Internal Revenue

Members

?

Deputy Commissioner of Internal Revenue

Operations Group

?

Assistant Commissioner of Internal Revenue

Assessment Service

?

Executive Director

Bureau of Local Government Finance

?

Executive Director

National Tax Research Center

?

Two (2) licensed and competent appraisers from a reputable association/organization of realty appraisers

Consultants

?

Commissioner
Housing and Land Use Regulatory Board

?

Administrator
National Mapping and Resource Information Authority

?

Administrator
Land Registration Authority

?

General Manager
National Housing Authority

Secretariat

?

Asset Valuation Division

- Technical Committee on Real Property Valuation (TCRPV) shall be composed of the following:

Chairman

?

Assistant Commissioner Bureau of Internal Revenue
Assessment Service

Members

?

Representative
Bureau of Local Government Finance

?

Representative
National Tax Research Center

?

Two (2) licensed and competent appraisers from a reputable association/organization of realty appraisers

Consultants

?

Assistant Commissioner
Legal Service

?

Representatives from:
Housing and Land Use Regulatory Board

National Mapping and Resource Information Agency
National Housing Authority
Land Registration Authority

Secretariat

?

Asset Valuation Division

- Sub-Technical Committee on Real Property Valuation (STCRPV) shall be composed: of the following:

Chairman

?

Revenue District Officer (RDO)

Members

?

City/Municipal/Provincial Assessor

?

Local Development Officer (Office of the Mayor)

?

Two (2) licensed and competent appraisers from a reputable association/organization of realty appraisers

Functions of the Committees:

- The Executive Committee on Real Property Valuation (ECRPV) shall:

- Study, analyze and approve the proposed Schedule of Zonal Values of real properties prepared by the Sub-Technical Committee on Real Property Valuation as reviewed by the TCRPV.

- The Technical Committee on Real Property Valuation (TCRPV) shall:

- Study and review the proposed Schedule of Zonal Values of real properties prepared by the Sub-Technical Committee on Real Property Valuation.

- Deliberate and resolve appealed cases involving approved zonal values and controversies as to the valuation issues in the Regional and District Offices.

- Assign zonal values of properties not listed/included in the approved schedule of Zonal values.

- The Sub-Technical Committee on Real Property Valuation (STCRPV) shall

1. Study, prepare and conduct the public hearing on the proposed Schedule of Zonal Values of real properties under the jurisdiction of the Revenue District Office.

All provincial, city and municipal assessors are hereby directed to render assistance to the above Committees in the determination of the realistic valuation of real properties in their respective areas of jurisdiction.

The above Committees may likewise be authorized to avail of the services of any personnel of this Department and the bureaus and offices under it.

The Chairmen, Members and Secretariat of the above Committees shall be entitled to honoraria and traveling expenses authorized under existing laws.

The provisions of Department Order Nos. 10-92, 11-92, 12-89, 13-89 and Ministry Order Nos. 20-86 and 21-86 are hereby repealed, modified or amended accordingly.

x x x x

[57] Department Order 12-89.

[58] Rollo, p. 83.

[59] Section 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. -.

x x x

(E) Authority of the Commissioner to Prescribe Real Property Values. – The Commissioner is hereby authorized to divide the Philippines into different zones or areas and shall, upon consultation with competent appraisers both from private and public sectors, determine the fair market value of real properties located in each zone or area. For purposes of computing any internal revenue tax the value of the property shall be whichever is the higher of:

- (1) The fair market value as determined by the Commissioner; or
- (2) The fair market value as shown in the schedule of values of the Provincial and City Assessors.

[60] Section 6 of Revenue Regulations No. 08-98 "Revenue Regulations Amending Pertinent Portions of Revenue Regulations Nos. 11-96 and 2-98 Relative to the Tax Treatment on the Sale, Transfer or Exchange of Real Property and for this Purpose Revising the Time and Place of Payment of the Capital Gains Tax Due Thereon," reads:

SECTION 6. Tax Clearance Certificate. – Upon presentation of the Capital Gains Tax Return or Creditable Withholding Tax Return with a bank validation evidencing full payment of the capital gains tax or the creditable withholding tax due on the sale, transfer, barter, exchange or other disposition of real property classified as capital or ordinary asset, as the case may be, the Revenue District Officer (RDO) of the revenue district where the property being transferred is located shall issue the corresponding Tax Clearance (TCL) or Certificate Authorizing Registration (CAR) for the registration of the real property in favor of the transferee.

[61] Rollo, p. 24.

[62] Id. at 241.

[63] CA rollo, pp. 378-379.

[64] TSN, May 9, 2005, p. 758.

[65] Republic v. Gingoyon, G.R. No. 166429, December 19, 2005, 478 SCRA 474, 527.

[66] Republic v. Gingoyon, G.R. No. 166429, February 1, 2006, 481 SCRA 457, 467.

[67] Section 6 of Rule 67 of the Revised Rules on Civil Procedure reads:

SEC. 6. Proceedings by commissioners. - Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. Evidence may be introduced by either party before the commissioners who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case. xxx

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.